

# BAY MILLS INDIAN COMMUNITY

## TRIBAL UTILITY ORDINANCE

### ARTICLE I

#### GENERAL PROVISIONS

**SECTION 1.01. TITLE AND DATE:** This ordinance shall be titled; the Bay Mills Tribal Utility Ordinance. The ordinance shall become effective immediately upon adoption by resolution by the Bay Mills Indian Community Executive Council.

**SECTION 1.02. PURPOSE:** The purpose of the Bay Mills Tribal Utility Ordinance is to define the policies, establish an organization and identify the necessary rules and regulations for: The operation, maintenance and management of the various public utilities located on the Bay Mills Indian Reservation.

**SECTION 1.03. POLICY:** It shall be the policy of the Bay Mills Indian Community to operate, maintain and manage the public utilities on the Bay Mills Indian Reservation so that the community residents are provided with a high level of environmental services designed to minimize exposure to adverse conditions which could negatively impact the physical and environmental health of any individual or the community. It shall also be the policy of the Bay Mills Indian Community that the operation maintenance and management of the public utilities shall be carried out through an efficient program and in a financially responsible cost effective and self-sufficient manner.

**SECTION 1.04. JURISDICTION:** The authority to establish a Tribal Utility Organization and to levy appropriate user fees to all residents and organizations operating on the Bay Mills Indian Reservation is provided in Articles VI and Section 4 of the Bay Mills Indian Community Tribal Constitution.

### ARTICLE II

#### DEFINITION OF TERMS

**SECTION 2.01. GENERAL:** Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be set forth in this Article II.

**SECTION 2.02. APPURTENANCES:** "Appurtenances" are the real and personal property owned by the Utility Services Department or the Tribe located on, near or under the roadways and streets, such as fire hydrants and valves.

**SECTION 2.03. CUSTOMER:** "Customer" means a person, business, agency or other organization that uses, is entitled to use, or is obligated to pay for the use or receipt of services from the Utility Services Department.

**SECTION 2.04. CUSTOMER LINES:** "Customer lines" are the potable water lines located immediately adjacent to, inside of, or under a customer's residence or other building or property, which are either connected to utility service lines or are maintained by the customer separately from utility service lines.

**SECTION 2.05. GARBAGE:** "Garbage" shall mean 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.

**SECTION 2.06. DISTRIBUTION SYSTEM LINES:** "Distribution system lines" are those potable water lines maintained by the Utility Department by which water utility services are provided to customers.

**SECTION 2.07. METER:** "Meter" is a device, owned by the Utility Services Department, for measuring the amount of water utility services provided to a particular customer.

**SECTION 2.08. MANAGER:** "Manager" shall mean an individual hired by or appointed by the Utility Authority to oversee and manage the operation of the Utility Services Department.

**SECTION 2.09. OPERATOR:** "Operator" shall mean an individual hired by or appointed by the Utility Authority or manager to provide direct day to day preventive maintenance and operational service for the public water and sanitary sewer utilities.

**SECTION 2.10. ON-SITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS;** "On-site sewage treatment and disposal systems" shall mean individual or community septic tanks and subsurface drain fields and associated appurtenances that collect, treat and dispose of liquid waste generated by customers, which are maintained and operated by the Utility Services Department.

**SECTION 2.11. OFF-RESERVATION:** "Off-reservation" is any area located outside of the exterior boundaries of the Bay Mills Indian Reservation.

**SECTION 2.12. REGULATION:** "Regulation" is a rule of law or procedure duly adopted by the Utility Authority for purposes of implementing the requirements of this ordinance.

**SECTION 2.13. SEPTIC SYSTEM CONTRACTOR:** "Septic system Contractor" shall mean any individual, firm, contractor or organization who the Utility Authority contracts with, to pump out on-site sewage treatment and disposal systems and dispose of the waste material and/or to repair the on-site sewage treatment and disposal systems located on the Bay Mills Indian Reservation.

**SECTION 2.14. TRIBAL COMMUNITY:** "Tribal Community," for purposes of this ordinance, shall include, but not necessarily be limited to, enrolled Bay Mills Indian Community Tribal members.

**SECTION 2.15. CONTRACTOR:** "Contractor" shall mean any individual, firm, contractor or organization who contracts with the Utility Authority to provide environmental services or utility repairs, design, inspection, reconstruction or operation.

**SECTION 2.16. UTILITIES AND ENVIRONMENTAL SERVICES:** "Utilities and Environmental Services" are those basic services necessary for supporting residential and commercial development, including, but not limited to, water, sewer, garbage collection, roads and appurtenances.

**SECTION 2.17. UTILITY AUTHORITY:** "Utility Authority" is the agency responsible for, and authorized to manage, the Utility and Environmental Services Department of the Bay Mills Indian Community, as established by this ordinance.

**SECTION 2.18. UTILITY AND ENVIRONMENTAL SERVICES DEPARTMENT:** "Utility and Environmental Services Department" is a governmental department of the Bay Mills Indian Community authorized to operate the utility services provided by the Tribe.

**SECTION 2.19. DEPARTMENT:** "Department" shall mean the Utility and Environmental Services Department of the Bay Mills Indian Community.

**SECTION 2.20. VENDOR:** "Vendor" is any individual firm, contractor or organization who regularly supplies parts, equipment, supplies and services to the Utility and Environmental Services Department used in the operation maintenance and management of the Utilities and Environmental Services of the Bay Mills Indian Community.

**SECTION 2.21. COLLECTION LINES:** "Collection Lines" are those sanitary sewerage lines maintained by the Utility and Environmental Services Department by which sanitary sewer collection and disposal services are provided to customers.

**SECTION 2.22. SHALL, MAY:** "Shall" is mandatory; "may" is permissive.

## ARTICLE III

### UTILITY AND ENVIRONMENTAL SERVICES DEPARTMENT AND UTILITY AUTHORITY

#### **SECTION 3.01. ESTABLISHMENT OF UTILITY AND ENVIRONMENTAL SERVICES DEPARTMENT:**

There is hereby established the Bay Mills Tribal Utility and Environmental Services Department having the responsibility for operating and maintaining the tribal public utilities and providing essential community environmental services directly or by contract.

**SECTION 3.02. UTILITY AUTHORITY:** There is hereby established the Bay Mills Indian Community Tribal Utility Authority to serve as the advisory, administrative and management authority for the Bay Mills Tribal Utility and Environmental Services Department.

**SECTION 3.03. UTILITY AUTHORITY - OPERATING ORGANIZATION:** The Utility Authority shall operate as a subordinate unit of tribal government, independent in its daily operation, but responsible to the Executive Council for its actions. The methods of appointment, terms of office, and operating procedures of the Utility Authority shall be set forth in this ordinance and in regulations adopted by the Utility Authority.

**SECTION 3.04. UTILITY AUTHORITY - POWERS AND RESPONSIBILITIES:** The Utility Authority shall manage the public utilities of the Tribe, and obtain and disburse funds as required for operation, maintenance and expansion of the tribal public utilities.

To fulfill these responsibilities, the Authority shall have the power to:

- (1) Levy and collect reasonable fees for utility services;
- (2) Provide for the hiring and compensation of appropriate management and maintenance personnel;
- (3) Adopt appropriate regulations to implement the requirements of this Ordinance;
- (4) Authorize disbursement of funds for operation, maintenance and repair of utility services.
- (5) Contract with vendors and contractors to assure that safe and reliable environmental services are available to and utilized by the residents of the Bay Mills Indian Community.
- (6) Authorize investment of Utility and Environmental Service Department funds.

**SECTION 3.05. UTILITY AUTHORITY - MEMBERSHIP:** The Utility Authority shall be composed of five persons appointed by the Executive Council. One person shall be selected from the Executive Council, as its representative; and, four persons selected from the general tribal community.

The Council shall appoint at least three of the five members from among the on-reservation users of the Tribal Public Utilities. Members of the Utility Authority shall be known as Utility Commissioners.

**SECTION 3.06. TERM OF OFFICE:** Except for the initial Authority membership, all Commissioners will serve two-year terms, except for the representative from the Executive Council who shall serve a one-year term. Initial Commissioners of the Authority shall serve terms as follows:

- Council Representative (Position 1) - 1 year
- Community Representative (Position 2) - 2 years
- Community Representative (Position 3) - 1 year
- Community Representative (Position 4) - 2 years
- Community Representative (Position 5) - 1 year

Terms shall expire upon the swearing in of newly appointed Commissioners.

In the event that the Executive Council Representative Commissioner loses or resigns his position on the Executive Council, his appointment to the Utility Authority shall expire immediately, and the Executive Council shall fill the vacancy by appointment of a new Commissioner at the next regular meeting of the Executive Council.

**SECTION 3.07. UTILITY AUTHORITY - METHOD OF APPOINTMENT:** The Executive Council shall annually appoint persons to fill any Utility Authority vacancies. For the Commissioner positions to be filled by tribal community members, the Executive Council shall advertise in the tribal newsletter soliciting interested persons for nomination. For all Commissioner positions, the Executive Council shall choose persons capable and willing to perform the duties of the Authority. After receiving nominations, the Executive Council shall appoint Commissioners by a majority vote.

**SECTION 3.08. UTILITY AUTHORITY VACANCIES:** If a Commissioner resigns, moves from the local area, dies, or is found guilty of a felony or major crime in any court of law, the Executive Council shall declare the Commissioner position vacant. If any Commissioner misses two consecutive Utility Authority meetings without a valid excuse, the Executive Council may declare the position vacant. All vacancies shall be filled within one month in accordance with this Section.

In the event that the number of unfilled Commissioners vacancies prevents gathering of a quorum for purposes of conducting business, the Executive Council shall act as the interim Utility Authority until such time as the filling of Commissioners' vacancies allows for a quorum.

**SECTION 3.09. OFFICERS:** Within ten days after the appointment of the initial Commissioners, there shall be an organizational meeting of the Utility Authority to elect a Chairman, Vice Chairman and a Secretary-Treasurer from among the Utility Authority Commissioners. The Officers shall be elected annually thereafter, immediately following the appointment by the Executive Council of the new Commissioners.

**SECTION 3.10. DUTIES OF OFFICERS:** Officers of the Utility Authority shall assume the following duties:

1. Chairman - Shall preside at all meetings; call and arrange all meetings; be responsible for all general management of the Utility Authorities affairs; and perform all duties incidental to the office.
2. Vice-Chairman - Shall perform all of the Chairman's duties in the absence of the Chairman; and shall assist the Chairman as required in handling the Utility Authority's affairs.
3. Secretary-Treasurer - Shall keep or cause to be kept a complete and accurate record of all meetings and shall maintain all correspondence, notices and records of the Utility Authority: Shall be responsible for maintaining financial records of the Utility and Environmental Services Department: Shall report the Department's financial status at each regularly scheduled Utility Authority meeting and shall present to the Commissioners for their action all requests for funds to meet the Department's financial obligations. Shall prepare an annual financial statement for submission to the Executive Council for the general membership meeting. Further, the Treasurer shall make all investments for the Utility Authority in accordance with appropriate sections of this ordinance.

**SECTION 3.11. MEETINGS:** The Utility Authority shall meet when business demands and requires attention, but in no case less than every three months. Regular and special meetings shall be called by the Chairman. Any two Commissioners may request the Chairman, in writing, to schedule a special meeting of the Utility Authority. If the Chairman fails to schedule a meeting within five days after receipt of a written request, any other two Commissioners may call such a meeting.

Meetings shall be held in public places, and the Utility Authority shall provide at least 7 days public notice of Authority meetings. Emergency meetings may be convened with less than seven (7) days notice, in cases of emergency where loss of life, limb or property is threatened, or where the continued operation or fiscal capability of the Tribal public utilities may be in jeopardy. All meetings shall be open to members of the tribal community and to users of the Tribal Public Utilities.

**SECTION 3.12. QUORUM AND VOTING:** A minimum of four Commissioners is required to establish a quorum and conduct Utility Authority business. Any action taken by the Utility Authority must be approved by a majority vote of those Commissioners present at a Utility Authority meeting. Each Commissioner of the Utility Authority, except the Chairman, shall be entitled to vote on each matter coming properly before the Utility Authority. The Chairman shall vote only in the event of a tie.

**SECTION 3.13. MEETING AGENDA:** Regular meetings of the Utility Authority shall be conducted according to the following agenda outline:

1. Call to Order
2. Roll call
3. Reading of minutes of previous meeting
4. Report by Treasurer
5. Report by Manager and/or Operator
6. Unfinished business
7. New business
8. Miscellaneous business
9. Adjournment

**SECTION 3.14. COMPENSATION:** Commissioners of the Utility Authority shall serve without monetary compensation, except as determined by the Executive Council. The Executive Council shall establish prevailing government rates for mileage, per diem, or other costs, consistent with tribal policy, and shall direct the Business Manager to approve such expenditures; provided that funds are available within the Utility and Environmental Services Department budget approved by the Utility Authority and ratified by the Executive Council.

**SECTION 3.15. PUBLIC HEARINGS:** The Utility Authority shall convene public hearings to discuss changes in utility rates assessed to users of tribal public utilities. All users of tribal public utilities shall be afforded seven days written notice of such hearings, and adequate notices shall be posted at appropriate places within the community.

## **ARTICLE IV**

### **MANAGEMENT AND FINANCES**

**SECTION 4.01. MANAGEMENT PERSONNEL:** The Utility Authority shall manage the business and operating affairs of the Utility and Environmental Services Department. The Utility Authority may provide for hiring and contracting personnel for the care and maintenance of the Tribal Public Utilities (provided that hiring shall be in accordance with tribal personnel policies), and shall establish compensation rates consistent with the Utility Department approved budget. The Utility Authority may delegate only those management duties that are not specifically designated as duties to be performed exclusively by the Utility Authority.

**SECTION 4.02. ANNUAL BUDGET:** The Utility Authority shall establish an annual budget enumerating the necessary costs of Utilities and Environmental Services operation, maintenance, administration, personnel, liability and other insurance, replacement, and a reserve for major repairs and replacements.

**SECTION 4.03. USER FEE SCHEDULE:** The annual budget shall be used to determine a fee schedule to be assessed to the users of Tribal Public Utilities. The budget and fee schedule shall be approved by the Utility Authority and ratified by the Executive Council.

**SECTION 4.04. FISCAL YEAR:** The fiscal year for the Utilities and Environmental Services Department shall be the same as the fiscal year of the Executive Council.

**SECTION 4.05. DEPOSITORY:** The depository of the Authority shall be set-up by the Tribal Accounting Department to meet the need for separation and accountability of utility funds.

**SECTION 4.06. INVESTMENTS:** Funds on deposit in excess of 30 days working capital may be invested in insured deposits at a commercial bank, savings and loan association or investment company offering the highest interest rate, provided that investment deposits shall have immediate liquidity. Investment deposits shall be made by the Tribal Investment Committee. Withdrawals from accounts shall be signed by two of the authorized signatures of the tribe.

**SECTION 4.07. DISBURSEMENTS AND RECEIPTS:** Shall be handled by established tribal policies as is the case with all Tribal funds.

**SECTION 4.08. RECORDS AND ACCOUNTS:** Suitable financial records shall be maintained for all expenditures, receipts from payments for services, investments and returns on investments, and any other financial matters necessary for operation of the Utility and Environmental Services Department. The separate accounting records for the Department shall be maintained in an appropriate business like manner. The records of accounts shall be made available to the Executive Council upon request.

**SECTION 4.09. EXCLUSIVE USE OF FUNDS:** The funds accrued by the Utility Authority and kept on deposit are for the exclusive use of the Utility and Environmental Services Department for the necessary operation, maintenance, and management of the Tribal public utilities and environmental services. Utility Authority funds shall not be transferred or loaned to the Tribal General Fund or any other accounts of the Tribe or other Tribal departments, except to pay for services provided to the Utility Authority or Department by other Tribal Departments.

**SECTION 4.10. AUDIT AND REPORTS:** The accounts of the Utility Authority will be audited annually at the close of the fiscal year at the expense of the Department. Annual and periodic reports will be submitted by the Utility Authority to the Executive Council.

**SECTION 4.11. BONDING:** Shall follow existing tribal policy.

**SECTION 4.12. INSURANCE:** Fire and other insurance on property owned or used by the Department or on property in which the Department has an insurable interest shall be in amounts and type of coverage specified by the Utility Authority. Insurance may be part of the Tribal insurance policies, with the expenses thereof pro-rated to the Department if so directed by the Executive Council.

**SECTION 4.13. REGULATIONS AND POLICY:** The Utility Authority shall have the authority to adopt appropriate regulations and policy as needed to implement the provisions contained in this ordinance with concurrence of Bay Mills Executive Council.

**SECTION 4.14. REGULATION; POLICY SUSPENSION ALTERATION:** No regulation duly adopted by the Utility Authority may be suspended or altered by any person without prior written authorization of the Utility Authority or Bay Mills Executive Council.

**SECTION 4.15. AMENDMENTS:** The Utility Authority shall recommend amendments to this ordinance that it believes necessary to promote the efficient, cost effective and self-sufficient operation of the Utility and Environmental Services Department, and shall present such amendments to the Executive Council for approval.

**SECTION 4.16. GRIEVANCES:** Any customer or any applicant for utility services, who is aggrieved by any action of the Utility and Environmental Service Department or the Utility Authority may file a grievance with the Utility Authority. The Utility Authority shall abide by the regulation set forth in this ordinance and shall handle such grievances in a manner which provides for due process of law. (See grievance procedures of Tribe)

All decisions by the Utility Authority on matters that have been submitted for grievance under the Department's grievance procedures shall be considered final. Final decisions of the Utility Authority may be appealed by an aggrieved party only on the basis that the Department's grievance procedures were not followed, or that due process was denied.

**SECTION 4.17. NON-WAIVER OF SOVEREIGN IMMUNITY:** The Utility and Environmental Services Department is an agency of the Bay Mills Indian Community, and thereby retains all rights of sovereign immunity of the Tribe. By providing services and entering into service agreements, the Department shall not waive the sovereign immunity of the Bay Mills Indian Community or any of its officers, agents, attorneys or employees, or any one else acting at the direction of and on behalf of the Bay Mills Indian Community.

## ARTICLE V

### **UTILITY AND ENVIRONMENTAL SERVICES - OPERATION**

**SECTION 5.01. SERVICES PROVIDED:** The services provided by the Utility and Environmental Services Department shall include domestic water, sewer and garbage. Additional services may be provided upon approval by the Utility Authority and ratification by the Executive Council.

**SECTION 5.02. WATER SERVICE:** The Utility Authority is responsible to provide safe, adequate water, including fire fighting needs, for a fee to those houses, businesses and institutions connected to the mainlines of the community water system. Responsibility for maintenance will include water sources, storage tanks, controls, mainlines, valves and hydrants, and service lines to the curb stops only. The service line from the curb stop to the house and interior house plumbing are the responsibility of the customer. The individual household water meters are owned by the Utility Authority and it is the responsibility of the Department to maintain the meters. The tribal community water systems shall be managed such that the regulatory requirements of the Federal Safe Drinking Water Act, as established by the Environmental Protection Agency, are satisfied.

**SECTION 5.03. SEWERAGE SERVICE:** The Utility Authority is responsible to provide sanitary disposal of domestic liquid waste for a fee to those houses, businesses and institutions connected to the mainlines of the community sewerage system. Further, the Utility Authority is responsible for the maintenance and repair of community sanitary sewage disposal systems and storm sewer systems. Responsibility for maintenance includes treatment facilities, pumping stations, mainlines, manholes, and service lines to the individual property lines. Tribal sewerage collection, treatment and disposal systems shall be managed such that applicable Federal regulations of the Clean Water Act and the National Pollution Discharge Elimination System are satisfied.

**SECTION 5.04. GARBAGE SERVICE:** Garbage collection and disposal service shall be provided by the Utility Authority for a fee for the houses located in the reservation community. The Utility Authority will provide this service directly or enter into a contract with a nearby solid waste collection contractor in order to provide this service to the community.

**SECTION 5.05. FUTURE SERVICES:** At some future date the Utility Authority may assume responsibility to provide electrical, gas, telephone, cable TV or other utility services.

**SECTION 5.06. MAINTENANCE SCHEDULE:** The Utility Authority shall develop and follow a regular schedule of maintenance service for each water and sewerage system and components thereof.

**SECTION 5.07. PERSONNEL:** The Utility Authority shall follow Tribal Policies.

**SECTION 5.08. PURCHASING:** The Utility System Operator shall follow Tribal Procurement Policies.

**SECTION 5.09. EQUIPMENT:** All utilities equipment shall be maintained according to the established maintenance schedule and quickly repaired when necessary so that disruptions in service are minimized.

Utility tools and equipment are not for personal use. Equipment shall not be loaned to other Tribal Departments. A record of tools and the individual to whom they were assigned shall be maintained.

Individuals will be held responsible for the security of tools and supplies that are assigned to them.

**SECTION 5.10. INVENTORY:** An accurate inventory of tools, equipment, and supplies will be kept up to date. A reserve supply of repair parts and regularly used supplies will be maintained by the Department. A listing shall be kept of local suppliers of repair parts, replacement equipment and expendable supplies.

**SECTION 5.11. PUBLIC RELATIONS:** The Utility Authority shall keep customers notified about changes in fees, rates, solid waste collection schedule, water quality regulatory compliance, levels of service and any other information which may affect customers use of sanitary facilities. Notices may be included in monthly billing statements or may be disseminated to the public through separate mailings, newsletters, tribal newspaper or posting throughout the community.

Any person filing a complaint or seeking information shall be given assistance in a courteous manner. Complaints may be presented verbally or in writing to any Department Staff member for resolution and action. Complaints that cannot be resolved within ten days should be referred to the Utility Authority in writing. The Utility Authority will resolve such complaints at the next regularly scheduled meeting of the Authority. The Chairman may call a special meeting of the Commissioners to resolve complaints as deemed necessary.

**SECTION 5.12. EMERGENCY NOTIFICATION:** An emergency notification plan will be developed by the Utility Authority and reviewed annually for notifying residents and visitors of:

- A. Discontinued service for more than eight (8) hours.
- B. Substandard conditions in water quality. This includes bacteriological, chemical or physical quality deficiencies.
- C. Changes in scheduling of refuse pick-up and septic tank pumping.
- D. Any other conditions which may adversely affect the health of the community residents or visitors.

**SECTION 5.13. STAFF TRAINING:** All employees that are newly assigned to operate the utility systems shall receive instruction from an experienced operator. A minimum of 32 hours of instruction should be received before the new employee assumes responsibility for operations.

Regular operators should receive up to 40 hours of formal instruction per year. The Utility Authority will assure that operators maintain current knowledge of water system operation techniques.

A training plan for the water system operators shall be developed which will provide for upgrading of knowledge and skills in water utility operations, maintenance and management. The goal of the training program shall be Michigan State certification as Water Distribution Manager.

**SECTION 5.14. LIMITS OF RESPONSIBILITY:** The Department shall not be responsible for, nor shall it maintain or repair, any private or domestic water or sewer system, garbage, roads or lighting except by specific agreement establishing fair rates of compensation to the Department, and that is approved and signed by the Utility Authority and owner of such facilities. The Department shall not be liable for any loss or damage beyond its control resulting from any defect in, or damage to, a customer's water or sewer lines or fixtures, garbage storage facilities, driveways or parking lots, hydrants or lighting.

**SECTION 5.15. RIGHT OF ENTRY - INSPECTIONS:** The Department, or its authorized representative, is hereby authorized to make limited, reasonable inspections, at reasonable times, of any grounds, building or residence served by the Utility Department to the extent necessary to insure that customer utility fixtures, lines and equipment are not being operated in a manner that would likely disrupt or interfere with utility services. Except in cases of emergency where life, limb, or property are threatened, or in cases of immediate water shortages, the Department shall give the customer at least 24 hours notice prior to requesting permission to enter and inspect. If permission to enter and inspect is denied or impeded in any way, the Department shall obtain a court order authorizing such entry and inspection. Where the permission to enter and inspect is unreasonably withheld, the Department may assess court costs and related expenses and add them to the affected customer's bill.

**SECTION 5.16. DISRUPTION OF SERVICE:** The Department may shut off water or sewerage service, or disrupt traffic on the public right-of-way to perform repairs, provided that advance notice has been given to affected customers. Provided, however, that in cases of emergencies where loss of life, limb or property is threatened, or in cases of immediate water shortage, service may be disrupted without advance notice. The Department shall not be responsible for consequent damage as a result of lack of water or sewerage during authorized disruptions of service.

The Department shall not be liable for any associated damages or delay caused by the breaking or leaking of any pipe, valve, fixture or other contrivance as a result of the lack of water or sewerage to or from any mains, services, hydrants, lines or reservoirs during authorized disruptions of service.

**SECTION 5.17 CROSS CONNECTIONS:** This Ordinance prohibits cross connections with the public water supply, in order to prevent a connection or arrangement of piping or appurtenances through which water of questionable quality, wastes, or other contaminants can enter the public water supply system. A "cross connection" is defined as any physical connection between the Tribal Public Water System and another system, either water or waste. Any individual source must be totally disconnected from household plumbing prior to connection to the Tribal Water Supply. "Disconnection" done solely by a valve is not sufficient and is not allowed.

It shall be the duty of the Utility Authority or its representatives to cause inspections to be made of all properties served by the Public Water System for the purpose of inspecting the piping system or systems thereof for cross representative, the owner, lessees, or occupants of any property so served shall furnish any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access upon request shall be deemed evidence of the presence of cross connections.

The Utility Authority is authorized and directed to discontinue water service, after reasonable notice, to any property wherein any connection in violation of this Ordinance exists, and to further take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection(s) has been eliminated in compliance with the provisions of this section.

**SECTION 5.19. UNNECESSARY WASTE OF WATER:** The Utility Authority reserves the right to terminate customer's service when the customer has repeatedly, unduly wasted water. Such undue waste is evidenced by the fact that hydrants, taps, hoses and other fixtures are permitted to run continuously when not in productive use. Where such conditions have been observed, the Utility Authority having been notified of the condition, may terminate water to the premise if the condition is not corrected within 48 hours after receipt of the notice. Service shall be resumed only after correction of the condition causing a wastage of water and payment by the customer of the approved reconnection fee, penalties and any other accounts in arrears to the Utility Authority.

**SECTION 5.20. METERS:** All homes hereafter connected to the Public Water System are required to install a water meter. All meters measuring utility services shall be installed in accordance with the requirements of the Utility Authority, in such location(s) as the Authority shall direct. All such meters shall be the property of the Authority and shall be maintained by it. All meters shall remain accessible to Authority personnel, and no person shall obstruct or tamper with any meter. Such obstruction or tampering shall be a violation of this Ordinance, and subject the violator to actual damages and civil penalties under this Ordinance. The assignee of the property on which the meter is located shall be responsible for all damages caused to the meter or the on/off water valve.

**SECTION 5.21. NEW CUSTOMER SERVICES:** Any dwelling within the service area of the Utilities shall be eligible for services, provided all of the following conditions are met:

1. Facilities are adequate to meet additional load.
2. New customer agrees to adhere to this Ordinance.
3. Approval by the Utility Authority.

## ARTICLE VI

### CUSTOMER OBLIGATIONS

**SECTION 6.01. CONDITIONS FOR SERVICE, PAYMENTS:** As a condition for receiving utility services from the Utility and Environmental Services Department, the customer agrees to comply with all provisions of this Ordinance, and any regulations duly adopted by the Utility Authority as well as any other applicable codes or regulations, including being current in the payment of all fees, penalties, costs, damages, or other charges assessed by the Department.

**SECTION 6.02. MAINTENANCE; REPAIRS; LIABILITY:** The customer shall be responsible for maintaining and repairing water and sewer lines located on or in the customer's grounds, building or residence in compliance with applicable regulations. The customer shall notify the Department in advance of major maintenance or repairs planned for water or sewer lines. The customer shall permit the Department to inspect the work for compliance with applicable regulations. The customer shall be liable for any damage to the Department's lines, equipment or other property caused by the customer, his family, guests, tenants, agents, employees, contractors, licensees or other persons under the customer's control or authority.

**SECTION 6.03. CUSTOMER TERMINATION OF SERVICE; ABANDONMENT:** A customer planning to vacate any grounds, building or residence served by the Department shall notify the Department in writing one week prior to the date the customer plans to either vacate or terminate service, whichever is later. A customer who fails to give notice is responsible for all charges accrued up to one week after notice is received by the Department, or up until service is terminated, whichever comes first.

**SECTION 6.04. WATER SHORTAGES:** During water shortages declared by the Utility Authority, the customer shall limit his use of water according to allocations established by the Utility Authority.

**SECTION 6.05. INSPECTIONS:** The customer shall not unreasonably withhold permission for the Department to enter and inspect the Department's and customer fixtures, lines and equipment when necessary to insure that they are operating in a manner that would not likely disrupt or interfere with utility services. The customer shall be liable for any costs or related expenses caused by his unreasonable withholding of permission.

**SECTION 6.06. SOLID WASTE FACILITIES:** The customer shall provide his own refuse containers and shall maintain the cans and holding facility in a manner that prevents the harborage of rodents and vermin. There shall be no excessive accumulation of refuse, garbage or solid waste in the community or around individual homesites.

**SECTION 6.07. USE OF SEWERAGE SYSTEM:** The customer shall use the sewerage collection, treatment and disposal system only for the disposal of normal household liquid waste including waste from toilet facilities, shower and bathing facilities and kitchen facilities.

**SECTION 6.08 UNAUTHORIZED DISPOSAL:** The customer shall not dispose of any material into the sanitary sewer which may cause the collection lines or subsurface drain field to become blocked or excessively loaded with solids, including but not limited to garbage, disposable diapers, sanitary napkins, paper material other than toilet paper, cigarette waste, cat litter, etc.

**SECTION 6.09. TOXIC WASTE DISPOSAL:** No customer shall dispose of any toxic, radioactive or otherwise hazardous waste into any Utility Department or private sanitary or storm sewerage system. Toxic and hazardous waste include but are not limited to: oil, pesticides, gasoline, organic solvents, paint, poisons and other manufactured chemical compounds.

## ARTICLE VII

### **FEE SCHEDULES AND BILLING**

**SECTION 7.01. FEE SCHEDULE ESTABLISHMENT:** The schedule of fees for utility services shall be set annually by the Utility Authority. The fee schedule shall be based on the estimated average annual costs for operation of all utility services. The fee schedule shall include a basic rate for all services, payment of which shall be required of each customer regardless of whether, or the extent to which, the customer uses any of the services, and; other fees, charges, penalties and assessments which the Utility Authority is authorized to levy as provided under various sections of this Ordinance. The fee schedule may be adjusted as needed to meet utility operating expenses.

**SECTION 7.02. PUBLIC HEARING:** The Utility Authority shall hold a public hearing whenever a new fee schedule is proposed for adoption. Seven days in advance of the hearing, the proposed fee schedule shall be sent to each customer and shall be posted in appropriate places. Following the public hearing the Utility Authority shall set a fee schedule, taking into consideration comments received at the hearing.

**SECTION 7.03. NOTICE TO CUSTOMERS:** A copy of the fee schedule adopted by the Utility Authority shall be sent to each customer at least 30 days prior to the date the established fees take effect.

**SECTION 7.04. BILLING RESPONSIBILITY:** The Utility Authority and/or Utility and Environmental Service Department is responsible for billing customers for Utility and Environmental Services. The billing service, however, may be contracted to the Tribe, Housing Authority, other agency or firm at the discretion of the Utility Authority and Executive Council.

**SECTION 7.05. MONTHLY STATEMENT:** Each month the Department shall mail to all utility customers a statement detailing the following information:

1. The customer's name and account number;
2. The types and levels of service used in the current month;
3. The billed cost of the current month's service, plus an accounting of bills or charges past due, if any;
4. The date that payment is due; and
5. The location to mail or deliver payment.

**SECTION 7.06. DUE DATE:** The monthly date on which payment will be due shall be established by Utility Authority regulation.

**SECTION 7.07. PAYMENTS PAST DUE:** Payments not received within 10 days after the established due date are considered past due. The Department shall issue a notice of payment past due to the customer, detailing the payment owed and the consequences for failure to pay. The notice shall be sent no later than the date the next billing is sent out.

**SECTION 7.08. DELINQUENT ACCOUNT:** If the payment past due is not paid within 10 days after the next regular monthly due date, the account shall be declared delinquent.

**SECTION 7.09. NOTICE OF DELINQUENCY:** The Department shall immediately notify the customer in writing once his account has been declared delinquent, and list the sanctions that may be imposed without further notice. Notice of delinquency shall be made by certified mail or such other means to provide proof of receipt by the customer.

**SECTION 7.10. ADVANCE DEPOSITS:** The Utility Authority may require each new customer to pay an advance deposit equal in amount to the basic monthly rate fees for the first month of service, prior to receiving services. The deposits shall be retained by the Utility Authority no longer than one year. The deposits, with interest compounded at passbook rates, shall be credited to the individual customer's utility account balance at the end of the deposit period, providing that the customer's account is not delinquent and in arrears. Any remaining deposit funds will be returned to the customer.

## **ARTICLE VIII**

### **ENFORCEMENT; PENALTIES; SANCTIONS**

**SECTION 8.01. AUTHORITY AND ENFORCEMENT:** The Utility Authority is hereby authorized by the Executive Council to collect established fees for service and to impose sanctions and penalties for non-payment. The Utility Authority shall enforce its regulations, fee collections and provisions of this ordinance by shutting off water service of any and all violators and delinquent bill-payers or imposing other penalties and sanctions as authorized.

**SECTION 8.02. ATTACHMENT OF CUSTOMERS PROPERTY:** The Utility Authority 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.

**SECTION 8.03. PENALTY SCHEDULE:** The Utility Authority shall develop and adopt a penalty schedule which outlines specific penalties, fines and assessments for violation and non-compliance with the provisions of this ordinance. The penalty schedule shall be reviewed for appropriateness annually by the Utility Authority.

**SECTION 8.04. SANCTIONS AUTHORIZED:** The following sanctions may be imposed by the Utility Authority for failure of the customer to comply with any provisions of this ordinance or with any duly adopted regulation of the Utility Authority:

- (1) Termination of service(s)
- (2) Assessment of penalties based on a penalty schedule adopted by regulation of the Utility Authority;
- (2) Assessment of late charges based on a schedule adopted by regulation of the Utility Authority;
- (4) Assessment of damages resulting from the customer's non-compliance;
- (5) Forfeiture of all or part of a deposit and any accumulated interest;
- (6) Filing of a lien against the customer's property after the account is declared delinquent;
- (7) Enforcing a lien by seeking judgment, and satisfaction from the customer's property from a court of competent jurisdiction;
- (8) Filing suit for damages in a court of competent jurisdiction; and
- (9) Referring violations that may involve criminal conduct to the police or prosecutor.

**SECTION 8.05. SANCTIONS GUIDELINES:** The Utility Authority shall use the following guidelines when considering the appropriate sanctions to be imposed in any given case:

- (1) Whether the sanction is required by this ordinance or other applicable law, or whether imposition is discretionary;
- (2) The minimum sanction needed to effect compliance;
- (3) The irreparable harm to the customer and/or family if the sanction is imposed;
- (4) The irreparable harm to operation of the Department, and to the Tribe, if the sanction is not imposed;
- (5) The customer's past record of compliance or non-compliance, or good faith efforts to achieve compliance;
- (6) The customer's statements or behavior indicating the likely success of a given sanction securing compliance;
- (7) The irreparable harm to other persons or property if the sanction is not imposed; and
- (8) The effectiveness of similar sanctions in securing compliance in other cases.

## ARTICLE IX

### MISCELLANEOUS PROVISIONS

**SECTION 9.01. VALIDITY, SEVERABILITY:** The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any part of this ordinance which can be given effect without such invalid part or parts.

**SECTION 9.02. AMENDMENTS:** The Bay Mills Indian Community Executive Council has the power to amend this ordinance at any time. The Executive Council shall act upon proposed amendments to this ordinance, submitted for action by the Utility Authority, by approval or disapproval of such proposed amendments.

**SECTION 9.03 SUSPENSION OF ORDINANCE:** No employee, officer, contractor or agent of the Bay Mills Indian Tribe is authorized to suspend or alter any of the provisions of this ordinance without the formal approval of the Bay Mills Executive Council.