

**TRIBAL CODE**

**CHAPTER 62:**

**TRIBAL ENVIRONMENTAL PROTECTION AUTHORITY**

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**HISTORY NOTE:**

Current Ordinance:

Adopted July 6, 1993, Tribal Resolution No. 93-69, effective immediately.

Reenacted as part of the Tribal Code on July 5, 1995, Resolution No. 95-89.

Prior Actions:

The Tribal Environmental Protection Authority was first established by Tribal Resolution 10-20-92, adopted October 20, 1992.

## **TRIBAL CODE**

### **CHAPTER 62:**

#### **TRIBAL ENVIRONMENTAL PROTECTION AUTHORITY**

##### **62.101 Purpose.**

The purpose of this Chapter is to protect and preserve the natural resource base of the Sault Ste. Marie Tribe of Chippewa Indians (the Tribe) and to promote the social and economic wellbeing of the Tribe and its members.

##### **62.102 Jurisdiction.**

This Chapter shall apply to the Tribe's natural resource base within the territory or jurisdiction of the Tribe as defined in Article II of the Tribal Constitution, including but not limited to water, air and land.

##### **62.103 Tribal Environmental Protection Authority; Creation.**

There is hereby created a Tribal Environmental Protection Authority (TEPA) consisting of seven (7) members to be appointed by the Tribal Chairman with the advice and consent of the Tribal Board of Directors.

##### **62.104 Membership: Terms, Chairman, Meetings.**

(1) Members of TEPA shall hold office for two years; provided, the initial terms shall be staggered, with three members appointed to two year terms and the remaining members for one year terms.

(2) In the case of a vacancy, the Tribal Chairman may make a temporary appointment until the next meeting of the Board of Directors, when he shall nominate some person to fill the position.

(3) Members of TEPA shall hold office until their respective successors have been appointed. Any member may resign from his office, such resignation to take effect when his successor has been appointed.

(4) The Tribal Chairman shall designate one member to be Chairman of TEPA.

(5) TEPA shall hold at least one meeting each month and such additional meetings as necessary. TEPA shall keep complete and accurate record of all its meetings.

**62.105 Powers and Duties.**

TEPA shall:

(1) Determine, define and implement the environmental control standards applicable for the Tribe to protect its natural resource base, as authorized by any other chapter of the Tribal Code.

(2) Act for the Tribe in regard to the adoption of standards for submission to the United States under any federal law respecting environmental protection.

(3) Monitor the overall health and quality of the Tribe's environment and its effect on human health and quality of life.

(4) Promote coordination of environmental policies, programs and actions involving the Tribe.

(5) Set forth environmental guidelines to be used by the Tribe in its overall economic development plan.

(6) Develop, collect, review and comment on innovative environmental policies, programs, and proposals developed by federal, state, local and other tribal governments.

(7) Promulgate rules governing all activities of TEPA or authorized in any other chapter of the Tribal Code.

(8) Conduct hearings as provided in §62.106 or any other chapter of the Tribal Code.

**62.106 Review of Adverse TEPA Action.**

(1) Any party aggrieved by an action of TEPA taken without a hearing may file with TEPA a petition for review of the action within thirty (30) days after the action is taken. The

petition shall specify the action to be reviewed, the reasons why the party disagrees with the action and a request for a hearing if one is desired.

(2) If a hearing is requested in the petition, TEPA shall hold a hearing within thirty (30) days of receipt of the petition. TEPA shall provide written notice of hearing to all parties concerned with the action to be reviewed at least fifteen (15) days before the hearing. The notice shall describe the nature of the hearing and the evidence to be presented and shall inform the concerned party of the right to participate and present evidence at the hearing.

(3) TEPA shall conduct its hearings in accordance with such rules of procedure as it may choose to adopt. Upon request, TEPA shall have the advice and assistance of a Tribal attorney at the hearing. The hearing shall be recorded.

(4) TEPA shall render a written decision and provide notice of the decision to all concerned parties within thirty (30) days after the hearing. The notice shall include notice of the right of appeal under §62.107.

#### **62.107 Appeal.**

(1) Any party aggrieved by the decision of TEPA made after a hearing under §62.106 or as provided in some other provision of the Tribal Code may appeal such decision to the Tribal Board of Directors within twenty (20) days after notice of the decision by filing a notice of appeal with the Tribal Secretary. A copy of the notice of appeal shall also be filed with TEPA. If no appeal is taken within the period provided, the TEPA decision shall be final.

(2) Review by the Board of Directors shall be limited to the record made at the hearing before TEPA. TEPA shall file the record with the Board of Directors within ten (10) days of the filing of the notice of appeal. The Board of Directors shall hear the matter within thirty (30) days of receipt of the notice of appeal and shall render its decision within thirty (30) days thereafter. The Board of Directors may delegate its authority to hear the appeal to the Tribal Appeals Court, a committee of the Board, or some other entity of its choosing.

(3) The Board of Directors shall not substitute its judgment for that of TEPA as to the weight of the evidence on any disputed finding of fact, shall give due weight to the experience, technical competence and specialized knowledge of TEPA, as well as the substantial authority conferred upon it under this Chapter and other chapters of the Tribal Code, and shall not substitute its judgment for that of TEPA on an issue of discretion. Unless the Board of Directors finds a ground for setting aside, modifying, remanding or ordering TEPA action under a specific provision of sub. (4), it shall affirm TEPA's decision.

(4) The Board of Directors may set aside, modify, remand or otherwise order TEPA action on a TEPA decision if:

(a) TEPA committed a material error in procedure which affected the fairness of the proceedings; or

(b) a material finding of fact is not supported by substantial evidence on the record as a whole; or

(c) TEPA acted outside its authority as delegated by this Chapter or another chapter of the Tribal Code; or

(d) the decision is inconsistent with or violates a provision of the Tribal Constitution, the Tribal Code, a TEPA rule or any other applicable law.