

**JAMESTOWN S'KLALLAM TRIBE**  
**TRIBAL CODE**  
**TITLE 10 – UTILITIES CODE**

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**Chapter 10.01**  
**General Provisions**

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**Section 10.01.01 Title**

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**Section 10.01.01 Title**

This Title shall be known and may be cited as the Jamestown S’Klallam Utilities Code or Utilities Code.

**Section 10.01.02 Policy**

It shall be the policy of the Tribe to operate, maintain and manage the public utilities of the Tribe so that the community residents and other users 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, the community or other users. It shall also be the policy of the Tribe that the operation, maintenance and management of its public utilities shall be carried out through an efficient program and in a financially responsible and cost effective manner.

**Section 10.01.03 Authority; Tribal Utilities Commission**

This Title is adopted by the Tribal Council (“Council”), pursuant to its authority under the Tribal Constitution, and it hereby constitutes itself as the Tribe’s utilities’ commission (“Utilities Commission”) to oversee the Tribe’s utilities’ program (“Utilities Program” or “Program”).

**Chapter 10.02**  
**Definition of Terms**

**Sections:**

**Section 10.02.01 Definition of Terms**

**Section 10.02.01 Definition of Terms**

The following definitions apply throughout this Title unless otherwise specified, or the context clearly indicates otherwise:

- A. "Appurtenances" are the real and personal property owned by the Utility Program or the Tribe located on, near or under Tribal land, or the associated roadways and streets, such as fire hydrants, valves, manhole covers and drains;
- B. "Chief Executive Officer" or "CEO" means the most senior member of the administrative staff of the Tribal Government, responsible to the Tribal Council for day-to-day operations of the Tribe.
- C. "Customer" means a person, business, agency or other organization that uses, is entitled to use, or is obligated to pay for the use of or provision of services from the Utility Program;
- D. "Customer Lines" are the potable water lines and sanitary lines located immediately adjacent to, inside of, or under a customer's residence or other building or property, which are either connected to utility services from the Utility Program or are maintained by the customer separately from the Utility Program service lines;
- E. "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 operations by organizations in the community;
- F. "Distribution system lines" are those potable water lines maintained by the Utility by which water utility services are provided to customers;
- G. "Collection Lines" are those sanitary sewer lines maintained by the Utility by which sanitary sewage collection and disposal services are provided to customers;
- H. "Meter" is a device, owned by the Utility, for measuring the amount of water provided to a particular customer;
- I. "Manager" or "Operator" shall mean an individual hired by or appointed by the CEO to provide direct day-to-day preventative maintenance and operations service for the public water and sanitary sewer utilities;
- J. "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 water generated by customers;
- K. "Regulation" is a rule or procedure duly adopted by the Commission, as defined below, for purposes of implementing the requirements of this Title;
- L. "Sewage disposal system cleaner" shall mean any individual, firm, contractor or organization who the Manger or Operator 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 operated by the Tribe;

- M. "Tribal Community," for the purposes of this Title, shall include, but not necessarily be limited to, enrolled Tribal citizens;
- N. "Contractor" shall mean any individual, firm or organization with whom the Tribe contracts to provide environmental services or utility repairs, design, inspection, or reconstruction or operation;
- O. "Utilities" are those basic services necessary for supporting residential and commercial development, including, but not limited to, water and sewer;
- P. "Utilities Program" or "Program" is a governmental function of the Tribe authorized to operate the utilities services provided by the Tribe;
- Q. "Utilities Commission" or "Commission" shall mean the Tribal Council, when it is acting as the utilities commission for the Program;
- R. "Vendor" is any individual, firm, contractor or organization that supplies parts, equipment, supplies, and/or services to the Program;
- S. "Shall" is mandatory; "may" is permissive;
- T. "Sewage" shall mean all water-carried wastes;
- U. "Public Utilities" shall mean all utilities owned, operated, or managed by the Tribe or its designated authority;
- V. "Essential Environmental Services" shall mean water and sewer services; and
- W. "Tribal Utilities Committee" or "Utilities Committee" is the committee established by this Title to advise the CEO regarding oversight and implementation of this Title and the operations of the Program.

## **Chapter 10.03**

### **Utilities Program and Utilities Administration**

#### **Sections:**

#### **Section 10.03.01 Establishment of Utilities Program**

#### **Section 10.03.02 Utilities Administration**

#### **Section 10.03.03 Powers and Responsibilities**

#### **Section 10.03.04 Public Hearings**

#### **Section 10.03.01 Establishment of Utilities Program**

There is hereby established the Jamestown S'Klallam Tribal Utilities Program ("Utilities Program") having the responsibility for operating and maintaining the Tribal public utilities and providing essential community environmental services directly or by contract.

#### **Section 10.03.02 Utilities Administration Committee; Utilities Committee**

There is hereby established a Utilities Committee that shall serve as the oversight body for the Program, advising the Tribe's CEO, who shall serve as the administrative authority for the Program.

The members of the Utilities Committee are to be appointed by the CEO. They can include Tribal government staff and representatives from other Tribal entities, as appropriate.

#### **Section 10.03.03 Powers and Responsibilities**

The CEO, with input from the Utilities Committee, shall manage the public utilities of the Tribe, and obtain and disburse funds, as required, for the operation and maintenance of the Program. To fulfill these responsibilities, the CEO shall have the powers to:

- A. Levy and collect reasonable fees for utilities services, including but not limited to monthly service charges, connection fees, penalties, construction permits, and other assessments, subject to the approval of the Utilities Commission;
- B. Recommend adoption by the Utilities Commission of appropriate regulations to implement the requirements of this Title;
- C. Authorize disbursement of funds for operations, maintenance and repair of utilities services;
- D. Contract with vendors and contractors to assure that safe and reliable environmental services are available to and utilized by the customers of the Program;
- E. Authorize investment of Program funds; and
- F. Impose sanctions on customers in accordance with the provisions of this Title.

#### **Section 10.03.05 Public Hearings**

The Utilities Commission may, in its discretion, convene public hearings to discuss proposed changes in utilities rates, as developed by the Utilities Committee and as recommended by the CEO, assessed to users of the Program. All users of the Program shall be afforded five (5) days written notice of such hearings, and adequate notices shall be posted at appropriate places within the community and/or in the Tribal newspaper or other public notice.

**Chapter 10.04**  
**Management and Finances**

**Sections:**

**Section 10.04.01 Management Personnel**

**Section 10.04.02 Annual Budget**

**Section 10.04.03 User Fee Schedule**

**Section 10.04.04 Fiscal Year**

**Section 10.04.05 Depository**

**Section 10.04.06 Records and Accounts**

**Section 10.04.07 Audit and Reports**

**Section 10.04.08 Insurance**

**Section 10.04.09 Regulations and Policy**

**Section 10.04.10 Regulation Suspension or Alteration**

**Section 10.04.11 Amendments**

**Section 10.04.12 Grievances**

**Section 10.04.13 Non-Waiver of Sovereign Immunity**

**Section 10.04.01 Management Personnel**

The CEO, with advice from the Utilities Committee, shall manage the business and operating affairs of the Program, including 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 establishing compensation rates consistent with the Program's approved budget.

**Section 10.04.02 Annual Budget**

The CEO, with input from the Utilities Committee, shall establish an annual budget enumerating the necessary costs of Utilities operation, maintenance, administration, personnel, liability and other insurance, equipment replacement, and a reserve for major repairs and capital expenditures, which shall be submitted to the Commission for approval.

**Section 10.04.03 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 prepared by the CEO, with input from the Utilities Committee, and be approved and ratified by the Commission.

**Section 10.04.04 Fiscal Year**

The fiscal year for the Program shall be the same as the fiscal year of the Tribe (October 1 – September 30).

**Section 10.04.05 Depository**

The depository of the Program shall be a separate commercial account or accounts in any bank selected by the CEO. Said account shall be designated as "Jamestown S'Klallam Tribal Utilities Program."

**Section 10.04.06 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 the operation of the Program. The separate accounting records for the Program shall be maintained in an appropriate business-like manner. The records of accounts shall be made available to the Commission upon request.

#### **Section 10.04.07 Audit and Reports**

The accounts of the Program will be audited annually at the close of the fiscal year at the expense of the Program. Annual and periodic reports will be submitted by the Tribe's Chief Financial Officer to the Commission.

#### **Section 10.04.08 Insurance**

Fire and other insurance on property owned or used by the Program or on property in which the Program has an insurable interest shall be in amounts and type of coverage specified by the CEO. Insurance may be part of the Tribal insurance policies, with the expenses thereof pro-rated to the Program, if so directed by the CEO.

#### **Section 10.04.09 Regulations and Policy**

The Commission shall have the authority to adopt appropriate regulations and policies and procedures, as needed, to implement the provisions contained in this Title. Any proposed regulation or policy and procedure shall be submitted to the Commission, by the CEO, for review at least two (2) weeks prior to its proposed effective date; provided, however, that emergency regulations may be adopted, and shall take effect immediately, without prior Council review. Emergency regulations shall be transmitted to the Commission within forty-eight (48) hours after adoption. Any regulation may be rescinded or approved by the Commission at its discretion.

#### **Section 10.04.10 Regulation Suspension or Alteration**

No regulation duly adopted by the Commission may be suspended or altered by any person without prior written authorization of the Commission.

#### **Section 10.04.11 Amendments**

The Tribal Council shall have the authority to approve amendments to this Title that it believes are necessary to promote the efficient and cost effective operation of the Program. The CEO shall prepare and submit any such amendments, upon consultation with the Committee, whether proffered by the CEO or requested by the Commission.

#### **Section 10.04.12 Grievances**

Any customer or any applicant for utility services, who is aggrieved by any action of the Program, may file a grievance with the CEO. The CEO shall abide by the provisions this Title in handling such grievances, thereby insuring the aggrieved party receives due process of law. If the grievance is not handled by the CEO to the satisfaction of the customer or applicant, the matter may be turned over to the Utilities Commission for resolution for a final decision.

All decisions by the Commission on matters that have been submitted for grievance under the Program's grievance procedures shall be considered a final administrative action under this Title. Final administrative decisions of the Commission may be appealed to Tribal Court by an aggrieved party only on the basis that the Program's grievance procedures were not followed, or that due process was denied.

#### **Section 10.04.13 Non-Waiver of Sovereign Immunity**

The Program is an agency of the Tribe and thereby retains all rights of sovereign immunity of the Tribe. By providing services and entering into service agreements, the Program shall not waive the sovereign immunity of the Tribe or any of its officers, agents, elected officials, attorneys or employees, or anyone else acting at the direction of and on behalf of the Tribe, except as provided for in Title 22 of the Tribal Code.



**Chapter 10.05**  
**Utilities Services - Operations**

**Sections:**

- Section 10.05.01 Services Provided**
- Section 10.05.02 Water Service**
- Section 10.05.03 Sewage Service**
- Section 10.05.04 Future Services**
- Section 10.05.05 Maintenance Schedule**
- Section 10.05.06 Personnel**
- Section 10.05.07 Purchasing**
- Section 10.05.08 Equipment and Supplies**
- Section 10.05.09 Inventory**
- Section 10.05.10 Resoultion of Complaints**
- Section 10.05.11 Emergency Notifications**
- Section 10.05.12 Staff Training**
- Section 10.05.13 Limits of Responsibility**
- Section 10.05.14 Right of Entry - Inspections**
- Section 10.05.15 Disruption of Service**
- Section 10.05.16 Permits**
- Section 10.05.17 Water Shortage Service Preference**
- Section 10.05.18 Waste of Water**
- Section 10.05.19 Conservation of Resources**
- Section 10.05.20 New Customer Services**

**Section 10.05.01 Services Provided**

The services provided by the Program shall include potable water, sewer, and related appurtenances, subject to the conditions and restrictions set out in this Title. Additional services may be provided upon approval and ratification by the Commission.

**Section 10.05.02 Water Service**

The Program is responsible for providing safe, adequate water for a fee for those houses and facilities connected to the community water system mainlines. Responsibility for maintenance will include water sources, storage tanks, controls, mainlines, valves, hydrants, and service lines to the curb stops only. The service line from the curb stop to a facility or to a house and interior house plumbing are the responsibility of the customer.

**Section 10.05.03 Sewage Service**

The Program is responsible for providing sanitary disposal of domestic liquid waste for a fee to those houses connected to the community sewage system mainlines. Further, the Program may, for a fee, provide maintenance and repair of individual on-site sewage disposal systems.

The Program will be responsible for maintaining treatment facilities, pumping stations, mainlines and manholes and service lines to the property lines.

Customers will be responsible for all elements of the on-site sewage treatment systems that are inside the property boundaries of the customer's property.

**Section 10.05.04 Future Services**

At some future date, the Program, in the complete discretion of the Commission, may for providing garbage,

electrical, gas, telephone, cable TV, road maintenance or other utility services.

#### **Section 10.05.05 Maintenance Schedule**

The Manager of the Program, designated by the CEO, shall develop and follow a regular schedule of maintenance service for each water and sewage system and components thereof. A record shall be kept of all routine maintenance and needed repairs performed. If additional utility services are added to the Program in the future, similar provisions will be made for maintenance schedules.

#### **Section 10.05.06 Personnel**

Existing Tribal Staff may be used and employed by the Program Manager to provide necessary maintenance and management services through agreements approved by the CEO, on the recommendation of the Committee. The specific personnel policies of the Tribe shall be followed. Job descriptions for all Program staff positions will be developed and followed.

#### **Section 10.05.07 Purchasing**

The Manager may make or approve purchases in accordance with the Tribal purchasing policies. An accurate account and receipts of all expenditures will be kept in a place determined by the Tribal Accounting Policies.

#### **Section 10.05.08 Equipment and Supplies**

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

Program 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 10.05.09 Inventory**

An accurate inventory of all tools, equipment, and supplies will be created and kept up to date.

A reserve supply of repair parts and regularly used supplies will be maintained by the Program. A listing shall be kept of local suppliers, of repair parts, replacement equipment, and expendable supplies.

#### **Section 10.05.10 Resolution of Complaints**

Any person filing a complaint or seeking information regarding the Program shall be given assistance in a courteous manner. Complaints may be presented verbally or in writing to any Program Staff member for resolution and action. Complaints that cannot be resolved within ten (10) days should be referred to the CEO in writing. The CEO will resolve such complaints in an expeditious manner. If warranted, the CEO may submit the issue to the Council Members for resolution.

#### **Section 10.05.11 Emergency Notifications**

An emergency notification plan will be developed by the CEO 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 septic pumping; or
- D. Any other conditions which may adversely affect the health of the community residents or visitors.

#### **Section 10.05.12 Staff Training**

All employees that are newly assigned to operate any of the Program's systems shall receive instruction from an experienced operator. A minimum of thirty-two (32) hours of instruction should be received before the new employee assumes responsibility for operations.

Regular operators should receive up to forty (40) hours of formal continuing education instruction per year. The CEO will assure that operators maintain current knowledge of water, sewage, and solid waste system operation techniques.

A training plan for the operators shall be developed which will provide for upgrading of knowledge and skills in water, sewage, and solid waste utility operations, maintenance and management. The goal of the training program shall be Washington State Certification as Water and Wastewater Operators.

#### **Section 10.05.13 Limits of Responsibility**

The Program shall not be responsible for, nor shall it maintain or repair, any private or domestic water or sewer systems. The Program 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, driveways or parking lots, hydrants or lighting.

#### **Section 10.05.14 Right of Entry - Inspections**

The Program, or its authorized representative, is hereby authorized to make limited, reasonable inspections, at reasonable times, of any grounds, building or residence served by the Program to the extent necessary to insure that the 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 immediate water shortages, the Program shall give the customer at least twenty-four (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 Program shall obtain a court order authorizing such entry and inspection. Where the permission to enter and inspect is unreasonably withheld, the Program may assess court costs and related expenses and add to them to the affected customer's bill.

#### **Section 10.05.15 Disruption of Service**

The Program may shut off water or sewage service, or disrupt traffic on the public right-of-way to perform repairs, provided it has obtained any needed permits from local jurisdictions, if the affected sites are not trust or reservation lands of the Tribe and 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 Program shall not be responsible for consequential damages as a result of lack of water or sewage service during authorized and/or emergency disruptions of service.

The Program 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 sewage to or from any mains, services, hydrants, lines or reservoirs during authorized disruptions of service.

#### **Section 10.05.16 Permits**

No connection, re-connection with, disconnections from, or other private, governmental or commercial use of any Program water or sewer system, road, appurtenance or other utility service or facility shall be made without written permission of the CEO. No construction on the trust or reservation lands of the Tribe of any private water or sewer system, or other private utility is authorized without written permission from the CEO.

Any applicant for a permit under this subsection shall meet all the requirements of the Tribal Code including, but not limited to, the requirements set out in Title 29 Building and Development and Title 27 Tribal Environmental Policy Act.

#### **Section 10.05.17 Water Shortage Service Preference**

In cases of a water shortage proclaimed by the Commission, the Manager shall regulate the amount of water customers may be allocated. The Manager may give preference to certain customers and/or amounts of water to be allocated, provided such allocations are made according to public necessity, and provided that generally, fair allocations between customers shall be made.

Any customer violating a legal allocation may have their water service discontinued. Service shall be resumed only upon payment of the approved reconnection fee and any penalties.

#### **Section 10.05.18 Waste of Water**

The CEO shall have the right to terminate a customer's service when they have repeatedly and unduly wasted water. Such undue waste is evidenced by the fact that the hydrant, taps, hoses and other fixtures are permitted to run continuously without specific prior approval of the Council. Where such conditions have been observed, the CEO having been notified of the condition may terminate water service if the condition is not corrected within forty-eight (48) hours after receipt of the notice. Service shall be resumed only after correction of the condition causing a waste of water and payment by the customer of the approved reconnection fee, penalties, and any other accounts in arrears to the Program.

#### **Section 10.05.19 Conservation of Resources**

The Program shall conduct operation, maintenance and repair services in a manner that will maximize the conservation of natural, financial, and property resources. Customers of the Program shall be encouraged to conserve water resources. The Program may offer assistance and service to customers for water conservation and other material resources conservation and recovery as determined to be feasible by the CEO and the Manager, after consultation with the Committee.

#### **Section 10.05.20 New Customer Services**

Any building within the service area of the Program shall be eligible for services, provided all of the following conditions are met:

- A. The Program has adequate capacity to meet the additional load;
- B. The new customer agrees to adhere to this Title and any regulations or policies adopted pursuant to it; and
- C. The request has been reviewed by the Committee and approved by the CEO.

## **Chapter 10.06**

### **Customer Obligations**

#### **Sections:**

**Section 10.06.01 Conditions for Service; Payments**

**Section 10.06.02 Maintenance; Repairs; Liability**

**Section 10.06.03 Customer Termination of Service; Abandonment**

**Section 10.06.04 Water Shortages**

**Section 10.06.05 Inspections**

**Section 10.06.06 Permits**

**Section 10.06.07 Cross-Connections**

**Section 10.06.08 Use of Sewage System**

**Section 10.06.09 Unauthorized Disposal**

**Section 10.06.10 Toxic Waste Disposal**

#### **Section 10.06.01 Conditions for Service; Payments**

As a condition for receiving utility services from the Program, the customer shall comply with all provisions of this Title and any regulations or policies duly adopted by the Commission as well as any other applicable codes or regulations. In addition, the customer shall be current in the payment of all fees, penalties, costs, damages, or other charges assessed by the Program.

#### **Section 10.06.02 Maintenance; Repairs; Liability**

The customer shall be responsible for maintaining and repairing water and sewer lines located within the property lines and within the customer's buildings or residence, in compliance with this Title and applicable regulations. The customer shall notify the Program in advance of major maintenance or repairs planned for water or sewer lines. The customer shall permit the Program to inspect the work for compliance with this Title and applicable regulations. The customer shall be liable for any damage to the Program's lines, equipment or other property caused by the customer, their family, guests, invitees, tenants, agents, employees, contractors, licensees or permittees, or other persons under the customer's control or authority.

#### **Section 10.06.03 Customer Termination of Service; Abandonment**

A customer planning to vacate any grounds, building or residence served by the Program shall notify the Program in writing one (1) 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 (1) week after the Program receives notice, or up until service is terminated, whichever comes first.

#### **Section 10.06.04 Water Shortages**

During water shortages declared by the Commission, the customer shall limit their use of water according to allocations established by the CEO or Manager.

#### **Section 10.06.05 Inspections**

The customer shall not unreasonably withhold permission for the Program to enter and inspect, as provided for under Section 10.05.14, above, the Program's and customer's fixtures, line and equipment when necessary to insure that they are operating in a manner that would not likely disrupt or interfere with the utility services. The customer shall be liable for any costs or related expenses caused by his unreasonable withholding of such permission.

#### **Section 10.06.06 Permits**

The customer shall obtain written permission from the CEO prior to making any connection, re-connection with, disconnection from, or other use of any Program water or sewer system, road, appurtenance, or other utility service or facility. The customer shall obtain written permission from the CEO prior to constructing any private water or sewer system, or other private utility on the trust or reservation lands of the Tribe. The customer, prior to construction, shall pay all fees assessed by the CEO pursuant to the provisions fo this Title or other titles of the Tribal Code.

#### **Section 10.06.07 Cross-Connections**

The customer shall not make a cross-connection with the water supply provided by the Program. A cross-connection is defined as any physical connection between the Program water system and another piping system, either water or wastewater. Any individual water source must be totally disconnected from the household or facility plumbing prior to connection to the Program's water supply. As used in this section "Disconnection" done solely by a valve shall not be allowed.

#### **Section 10.06.08 Use of Sewage System**

For residential customers: the customer shall use the sewage collection, treatment and disposal system only for the disposal of normal liquid waste including waste from toilet facilities, shower and bathing facilities and kitchen facilities.

For commercial customers: the customer shall use the sewage collection, treatment and disposal system for the disposal of normal liquid wastes. Each commercial customer with a kitchen shall make provisions for appropriate grease traps. No garbage disposals shall be used in any such kitchen facility connected to the Program sewage system.

#### **Section 10.06.09. 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 10.06.10 Toxic Waste Disposal**

No customer shall dispose of any toxic, radioactive, or otherwise hazardous waste into any Program or private sanitary or storm sewage system or solid waste disposal facility. All hazardous wastes must be disposed of at a sanitary landfill approved for the disposal of toxic wastes. Toxic and hazardous waste include but are not limited to: oil, pesticides, gasoline, organic solvents, paint, poisons and other manufactured chemical compounds.

**Chapter 10.07**  
**Fee Schedules and Billing**

**Sections:**

**Section 10.07.01 Fee Schedule Establishment**

**Section 10.07.02 Public Hearing**

**Section 10.07.03 Notice to Customers**

**Section 10.07.04 Billing Responsibility**

**Section 10.07.05 Monthly Statement**

**Section 10.07.06 Due Date**

**Section 10.07.07 Payments Past Due**

**Section 10.07.08 Delinquent Account**

**Section 10.07.09 Notice of Delinquency**

**Section 10.07.01 Fee Schedule Establishment**

The schedule of fees for utility services shall be set annually, if necessary, by the CEO, as recommended by the Committee, and as approved by the Commission. The fee schedule, if necessary, shall include a basic rate for all utility services, payment of which shall be required for 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 CEO is authorized to levy as provided under various provisions of this Title. The fee schedule may be adjusted as needed to meet utility operating expenses. The fee schedule may include: user fees; meter fees; construction permit fees; connection, disconnection or reconnection fees; inspection fees; penalties or late payment charges; and other assessments, as recommended by the Committee to the CEO and as approved by the Commission.

**Section 10.07.02 Public Hearing**

The Commission shall hold a public hearing whenever a revised fee schedule is proposed for adoption. At least five (5) 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 Commission shall set a fee schedule, taking into consideration comments received at the hearing and the recommendations of the CEO.

**Section 10.07.03. Notice to Customers**

A copy of the fee schedule adopted by the Commission shall be sent to each customer at least thirty (30) days prior to the date the established fees take effect.

**Section 10.07.04 Billing Responsibility**

The Tribal Accounting Department ("Department") is responsible for billing customers for Program services. The billing service, however, may be contracted to another agency or firm at the discretion of the CEO.

**Section 10.07.05. Monthly Statement**

Each month, the Department shall mail to all Program customers a statement detailing the following information:

- A. The customer's name and account number;
- B. The types and levels of service used in the current billing month;
- C. The cost of the current billing month's service, plus an accounting of bills or charges past due, if any;

- D. The date that payment is due; and
- E. The location to mail or deliver payment.

**Section 10.07.06 Due Date**

The monthly date on which payment is due will be established by Commission regulation on the recommendation of the CEO.

**Section 10.07.07. Payments Past Due**

Payments not received within ten (10) days after the established due date are considered past due. The Department shall issue a notice of 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 10.07.08. Delinquent Account**

If the payment past due is not paid within ten (10) days after the next regular monthly due date, the account shall be declared delinquent.

**Section 10.07.09. Notice of Delinquency**

The Department shall immediately notify the customer in writing once their 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.



**Chapter 10.08**  
**Enforcement; Penalties; Sanctions**

**Sections:**

- Section 10.08.01 Authority and Enforcement**
- Section 10.08.02 Attachment of Customer's Property**
- Section 10.08.03 Penalty Schedule**
- Section 10.08.04 Sanctions Authorized**
- Section 10.08.05 Sanctions Guidelines**

**Section 10.08.01 Authority and Enforcement**

The CEO is hereby authorized to collect established fees for service and to impose sanctions and penalties for non-payment. The CEO shall enforce the Program's regulations, fee collections and provisions of this Title by either 1) shutting off the water service of all violators and delinquent bill-payers or 2) imposing other penalties and sanctions as authorized.

**Section 10.08.02 Attachment of Customer's Property**

The CEO 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 10.08.03 Penalty Schedule**

The CEO, after consultation with the Committee, and with the approval of the Commission, shall develop and adopt a penalty schedule, which outlines specific penalties, fines and assessments for violation and non-compliance with the provisions of this Title. The CEO shall review the penalty schedule for appropriateness annually and, if necessary, suggest and secure changes to it from the Commission.

**Section 10.08.04 Sanctions Authorized**

The CEO, after consultation with the Committee, may impose the following sanctions for failure of the customer to comply with any provisions of this Title or with any regulations duly adopted by the Commission:

- A. Termination of Service;
- B. Assessment of penalties based on a penalty schedule proposed by the CEO and adopted by the Commission;
- C. Assessment of late charges based on a schedule proposed by the CEO and adopted by the Commission;
- D. Assessment of damages resulting from the customer's non-compliance;
- E. Forfeiture of all or part of a deposit and any accumulated interest;
- F. Filing of a lien against the customer's property after the account is declared delinquent;
- G. Enforcing a lien by seeking judgment, and satisfaction from the customer's property from a court of competent jurisdiction;
- H. Filing suit for damages in a court of competent jurisdiction; and

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

**Section 10.08.05 Sanctions Guidelines**

The CEO 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 Title or other applicable law, or whether imposition is discretionary;
- B. The minimum sanction needed to effect compliance;
- C. The irreparable harm to operation of the Program, and to the Tribe, if the sanction is not imposed;
- D. The customer's past record of compliance or non-compliance, or good faith efforts to achieve compliance;
- E. The irreparable harm to other persons or property if the sanctions are not imposed; and
- F. The effectiveness of similar sanctions in securing compliance in other cases.

**Chapter 10.09**  
**Miscellaneous Provisions**

**Sections:**

**Section 10.09.01 Validity; Severability**

**Section 10.09.02 Suspension of Title**

**Section 10.09.01 Validity; Severability**

The invalidity of any chapter, section, clause, sentence or provision of this Title shall not affect the validity of any part of this Title which can be given effect without such invalid part or parts.

**Section 10.09.02 Suspension of Title**

No employee, officer, contractor or agent of the Tribe is authorized to suspend or alter any of the provisions of this Title without the formal approval of the Commission.

**Chapter 10.10**  
**Codification and Amendments**

**Sections:**

**Section 10.10.01 Date of Codification**

**Section 10.10.02 Amendments**

**Section 10.10.01 Date of Codification**

Title 10 Utilities was approved at the Tribal Council meeting on April 9, 2002 by Resolution #11-02 and codified as a code by Resolution #11-05 on February 18, 2005.

**Section 10.10.02. Amendments**

The Tribal Council has the power to amend this Title at any time. The Tribal Council shall act upon proposed amendments to this Title by approval or disapproval of such proposed amendments.

This Title was amended on September 6, 2012 by Resolution #44-12.