

SKOKOMISH TRIBAL UTILITY ORDINANCE

Adopted by Resolution No. 92-100 (December 2, 1992)

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General Provisions

2.07.001 Title and Date

This ordinance shall be titled: Skokomish Tribal Utility Ordinance. The ordinance shall become immediately effective upon enactment of a resolution for adoption by the Skokomish Tribal Council.

2.07.002 Purpose

The purpose of the Skokomish Tribal Utility Ordinance is to define the policies, establish an organization and identify the necessary rules and regulations for:

- (a) the operation, maintenance and management of the various public utilities located on the Skokomish Indian Reservation.

2.07.003 Policy

It shall be the policy of the Skokomish Indian Tribe to operate, maintain and manage the public utilities and services on the Skokomish Indian Reservation so that the community residents are provided with a high level of service 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 Skokomish Indian Tribe that the operation, maintenance and management of the public utilities and services shall be carried out through an efficient program and in a financially responsible cost effective and self-sufficient manner.

2.07.004 Jurisdiction

The authority to establish a Tribal Utility Program and to levy appropriate user fees to all residents and organizations operating on the Skokomish Indian Reservation is provided in Sections 2.07.040 through 2.07.054 of this Ordinance and Article I, Section 1 of the Constitution of the Skokomish Indian Tribe.

Definition of Terms

2.07.010 General

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be set forth in Sections 2.07.010 through 2.07.027 of this Ordinance.

2.07.011 Appurtenances

"Appurtenances" are the real and personal property owned by the Utility Program of the Tribe located on, near or under the roadways and streets, such as fire hydrants and valves.

2.07.012 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 Program.

2.07.013 Customer Lines

"Customer Lines" are the potable water lines and sanitary sewer lines 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.

2.07.014 Distribution System Lines

"Distribution System Lines" are those potable water lines maintained by the Utility Program by which water utility services are provided to customers.

2.07.015 Meter

"Meter" is a device, owned by the Utility Program, for measuring the amount of water services provided to a particular customer. At this time not all of the houses on the community water system are metered.

2.07.016 Manager

"Manager" shall mean an individual hired by or appointed by the Utility Board to oversee and manage the operation of the Utility Program

2.07.017 Operator

"Operator" shall mean an individual hired by or appointed by the Utility Board to oversee and manage the operation of the Utility Program.

2.07.018 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 Program.

2.07.019 Off-Reservation

"Off-reservation" is any area located outside of the exterior boundaries of the Skokomish Indian Reservation (please refer to map of Tribal boundaries).

2.07.020 Regulation

"Regulation" is a rule of law or procedure duly adopted by the Utility Board for purposes of implementing the requirements of this ordinance.

2.07.021 Tribal Community

"Tribal Community," for purposes of this ordinance, shall include, but not necessarily be limited to, enrolled Skokomish Tribal members.

2.07.022 Contractor

"Contractor" shall mean any individual, firm, contractor or organization who contracts with the Utility Board to provide environmental services or utility repairs, design, inspection, reconstruction or operation.

2.07.023 Utility Board

"Utility Board" is responsible for, and authorized to manage, the Utility Program of the Skokomish Indian Tribe, as established by this ordinance.

2.07.024 Utility Program

"Utility Program" is a program of the Skokomish Indian Tribe authorized to operate the utility services provided by the Tribe.

2.07.025 Program

"Program" shall mean the Utility Program of the Skokomish Tribe.

2.07.026 Vendor

"Vendor" is any individual firm, contractor or organization who regularly supplies parts, equipment, supplies and services to the Utility Program used in the operation, maintenance and management of the Utilities Services of the Skokomish Indian Reservation.

2.07.027 Shall, May

"Shall" is mandatory; "may" is permissive.

Utility Program and Utility Commission

2.07.040 Establishment of Utility Program

There is hereby established the Skokomish Tribal Utility Program having the responsibility for operating and maintaining the tribal public utilities and providing essential community services directly or by contract.

2.07.041 Utility Commission

There is hereby established the Skokomish Tribal Utility Commission to serve as the advisory, administrative and management authority for the Skokomish Tribal Utility Program.

2.07.042 Utility Commission - Operating Organization

The Utility Commission shall operate as a subordinate unit of tribal government, independent in its daily operation, but responsible to the Tribal Council for its actions. The methods of appointment, terms of office, and operating procedures of the Utility Commission shall be set forth in this ordinance and in regulations adopted by the Utility Commission.

2.07.043 Utility Commission - Powers and Responsibilities

The Utility Commission 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 Commission shall have the power to:

- (a) Levy and collect reasonable fees for utilities and services subject to the review by the Tribal Council prior to adoption by the Commission;

- (b) Provide for the hiring and compensation of appropriate management and maintenance personnel; said hiring and compensation to conform with established Tribal personnel policies and salary guide lines;
- (c) Adopt appropriate regulations to implement the requirements of this Ordinance;
- (d) Authorize disbursement of funds for operation, maintenance and repair of utility services, based upon an annual budget to be ratified annually by the Tribal Council;
- (e) Contract with vendors and contractors to assure that safe and reliable services are available to and utilized by the residents of the Skokomish Reservation. Contracts shall be reviewed by the Tribal Contracting Official designated by the Tribal Council; and
- (f) Authorize investment of Utility Program funds in accordance with accepted tribal policies and procedures.

2.07.044 Utilities Commission - Membership

The Utility Commission shall be composed of five persons appointed by the Tribal Council. One person shall be selected from the Housing authority Board of Commissioners and three 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 Commission shall be known as Utility Commissioners.

2.07.045 Term of Office

Except for the initial Commission membership, all Commissioners will serve two-year terms, except for the representative from the Tribal Council who shall serve a one-year term.

Initial Commissioners of the Commission shall serve terms as follows:

- Council Representative (Position 1) - 1 year
- Housing Committee (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 Council Representative Commissioner loses or resigns his/her position on the Council, his/her appointment to the Utility Commission shall expire immediately, and the Council shall fill the vacancy by appointment of a new Commissioner at the next regular meeting of the Tribal Council.

2.07.046 Utility Commission - Method of Appointment

The Tribal Council shall annually appoint persons to fill any Utility Commission vacancies. For the Commissioner positions to be filled by tribal community members, the Council shall advertise in the tribal newsletter soliciting interested persons for nomination. For all Commissioner positions, the Council shall choose persons capable and willing to perform the duties of the

Authority. After receiving nominations, the Council shall appoint Commissioners by a majority vote.

2.07.047 Utility Commission 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 Tribal Council shall declare the Commissioner position vacant. If any Commissioner misses two consecutive Utility Commission meetings without a valid excuse, the Tribal 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 Commissioner vacancies prevents gathering of a quorum for purposes of conducting business, the Tribal Council shall act as the interim Utility Commission until such time as the filling of Commissioner vacancies allows for a quorum.

2.07.048 Officers

Within ten days after the appointment of the initial Commissioners, there shall be an organizational meeting of the Utility Commission to elect a Chairperson, Vice-Chairperson and a Secretary-Treasurer from among the Utility Commission Commissioners. The Officers shall be elected annually thereafter, immediately following the appointment by the Tribal Council of the new Commissioners.

2.07.049 Duties of Officers

Officers of the Utility Commission shall assume the following duties:

- (a) Chairperson: shall preside at all meetings; call and arrange all meetings; be responsible for all general management of the Utility Commission's affairs; and perform all duties incidental to the office.
- (b) Vice-Chairperson: Shall perform all of the Chairperson's duties in the absence of the Chairperson; and shall assist the chairperson as required in handling the Utility Commission's affairs.
- (c) 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 Commission; shall be responsible for maintaining financial records of the Utility Program; shall report the Program's financial status at each regularly scheduled Utility Commission meeting and shall present to the Commissioners for their action all requests for funds to meet the Program's financial obligations; shall prepare an annual financial statement for submission to the Tribal Council for the general membership meeting, and further, the Treasurer shall make all investments for the Utility Commission in accordance with appropriate sections of this ordinance.

2.07.050 Meetings

The Utility Commission shall meet when business demands and requires attention, but in no case less than once per month. Regular and special meetings shall be called by the Chairperson. Any two Commissioners may request the Chairman, in writing, to schedule a special meeting of the

Utility Commission. If the Chairperson 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 Commission shall provide at least 5 days public notice of Commission meetings. Emergency meetings may be convened with less than five 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.

2.07.051 Quorum and Voting

A minimum of three Commissioners is required to establish a quorum and conduct Utility Commission business. Any action taken by the Utility Commission must be approved by a majority vote of those Commissioners present at a Utility Commission meeting. Each Commissioner of the Utility Commission, except the Chairperson, shall be entitled to vote on each matter coming properly before the Utility Commission. The Chairman shall vote only in the event of a tie.

2.07.052 Meeting Agenda

Regular meetings of the Utility Commission shall be conducted according to the following agenda outline:

- (a) Call to Order
- (b) Roll Call
- (c) Reading of minutes of previous meeting
- (d) Report by Treasurer
- (e) Report by Manager and/or Operator
- (f) Unfinished business (to include comments from the public)
- (g) New business (to include comments from the public)
- (h) Miscellaneous business
- (i) Adjournment

2.07.053 Compensation

Commissioners of the Utility Commission shall serve without monetary compensation, except as determined by the Tribal Council. The Council shall establish prevailing government rates for mileage, per diem, or other costs, consistent with tribal policy, and shall direct the Coordinating Manager to approve such expenditures: provided that funds are available within the Utility Program budget approved by the Utility Commission and ratified by the Tribal Council.

2.07.054 Public Hearings

The Utility Commission 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 and/or in the tribal newspaper.

Management and Finances

2.07.060 Management Personnel

The Utility Commission shall manage the business and operating affairs of the Utility Program. The Utility Commission 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 Program's approved budget and the Tribal salary schedule. The Utility Commission may delegate only those management duties that are not specifically designated as duties to be performed exclusively by the Utility Commission.

2.07.061 Annual Budget

the Utility Commission shall establish an annual budget enumerating the necessary costs of Utilities and Services operation, maintenance, administration, personnel, liability and other insurance, replacement, and a reserve for major repairs and replacements. The annual budget shall be ratified by the Tribal Council. A current budget will be included in this Ordinance and updated accordingly.

2.07.062 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 approve by the Utility Commission and ratified by the Tribal Council

2.07.063 Fiscal Year

The fiscal year for the Utilities Program shall be the same as the fiscal year of the Tribal Council

2.07.064 Depository

The depository of the Program shall be a separate commercial account or accounts in any bank selected by the Utility Commission. Said account shall be in the name "Skokomish Tribal Utility Commission."

2.07.065 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 Utility Commission Treasurer. Withdrawal of investments require the approval of the Utility Commission Treasurer. Withdrawals from accounts shall be signed by two of the officers of the Utility Commission.

2.07.066 Disbursements and Receipts

The Utility Commission shall determine the distribution of funds required for the operation, maintenance and management of the Tribal Public Utilities. Disbursements will be made by check upon presentation of invoices or Commission or employees properly designated by the

Utility Commission. The checks written on accounts shall be signed by two of the Officers of the Utility Commission. Cash receipts will be deposited intact, as to amount, in the depository promptly. Receipts will be issued for all cash received and copies filed and retained for accounting.

2.07.067 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 Program. The separate accounting records for the Program shall be maintained in accordance with usual and commonly accepted Accounting Principles. The records of accounts shall be submitted to the Tribal Council quarterly, annually and at anytime requested.

2.07.068 Exclusive Use of Funds

The funds accrued by the Utility Commission and kept on deposit are for the exclusive use of the Utility and Services Program for the necessary operation, maintenance, and management of the Tribal public utilities and services. Utility Commission 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 Commission or Program by other Tribal Departments.

2.07.069 Audit and Reports

The accounts of the Utility Commission 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 Utility Commission to the Tribal Council.

2.07.070 Bonding

Officers of the Utility Commission and any other person(s) designated to handle funds for the Utility Program shall be bonded in accordance to Tribal policy.

2.07.071 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 Utility Commission. Insurance may be part of the Tribal insurance policies, with the expenses thereof pro-rated to the Utility Program if so directed by the Tribal Council.

2.07.072 Petty Cash

A petty cash fund is authorized to be established in the amount of \$200.00. This fund may be used to pay small expenses, when necessary, and to pay small obligations when it is not feasible to pay by check on the official depository. The fund Utility Commission in the amount of and upon the submittal of receipts, vouchers, and statements signed by the payees, of their proof of expenditure. Petty cash reimbursement vouchers shall be certified by the Treasurer.

2.07.073 Regulations and Policy

The Utility Commission shall have the authority to adopt appropriate regulations and policies as needed to implement the provisions contained in this ordinance. Any proposed regulation or policy shall be submitted to the Tribal Council for review at least two 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 presented to the Tribal Council within 48 hours after adoption. Any regulation may be rescinded by the Tribal Council at its discretion.

2.07.074 Regulations and Policies: Suspension or Alteration

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

2.07.075 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 Program, and shall present such amendments to the Tribal Council for approval.

2.07.076 Grievances

Any customer or any applicant for utility services who is aggrieved by any action of the Utility Program or the Utility Commission may file a written grievance with the Utility Commission. The Utility Commission 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.

If a bill is outstanding after the time period the customer must request a hearing with the Utility Commission or their water service will be terminated. This meeting will take place at a monthly Water Commission before the bill is due. If a bill payment plan is not arranged with the Water Commission, the customer's water will be shut off until the bill and hook up fees are paid. All grievances must be made to the Skokomish Water Commission. All grieving parties must appear before the Commission to State their grievance. The griever must have the grievance in written form for the Commission.

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

2.07.77 Non-Waiver of Sovereign Immunity

The Utility Program is an agency of the Skokomish Indian Tribe, 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 Skokomish Indian Tribe or any of its officers, agents, attorneys or employees, or any one else acting at the direction of and on behalf of the Skokomish Indian Tribe

Utility Program - Operation

2.07.090 Services Provided

The services provided by the Utility Program shall include domestic water. Additional services may be provided upon approval by the Utility Commission and ratification by the Tribal Council

2.07.091 Water Service

The Utility Commission is responsible to provide safe, adequate water 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, 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 Commission and it is the responsibility of the Program to maintain the meters. The Tribe is in the process of seeking funding to install water meters on the remaining houses which do not currently have meters. The Tribal community water systems shall be managed such that the regulatory requirements of the Skokomish Environmental Protection Act (SKEPA) and the Federal Safe Drinking Water Act, established by the Tribe and the Environmental Protection Agency, respectively, are satisfied.

2.07.092 Meters

All homes hereafter that are connected to the community water system are required to install a water meter. All new constructions must pay a hookup fee and the cost of installation and a water meter consistent with the model used on the other houses serviced by the community water system. All meters for measurement of utility services provided shall be installed in accordance with the requirements of the Utility in such locations as the utility and shall be maintained by it. All meters shall remain accessible to Utility personnel and no person shall obstruct or tamper with any meter. Such obstruction or tampering shall be a violation of this code and subject the violator to actual damages and civil penalties under this code. The assignee of the property on which the meter is located shall be responsible for all damage to or tampering with the turn off/on water valve attached to such meter. The Tribe is in the process of procuring water meters for those homes on the community system.

2.07.093 Public Water Use Requirements

The assignee of each lot or parcel of real property within the area served by the tribal water system, and where the community water system is within 200 feet of any dwelling, business or water using activity and to which service by such public or community water is available, is hereby required at his or her expense to connect such facilities to the community water system in accordance with the provisions of this article. Such installations and connections must be made within 60 days after the date of mailing or personal service by the Utility addressed to the owner of the property to be served notifying such owner to make such connection unless such time shall be extended by the utility.

2.07.094 Obtaining Service Without Authorization

No person shall obtain services from the utility facilities without authorization. Any person who obtains such unauthorized service by connecting to the Utility facilities without authorization or

by bypassing or tampering with any meter shall be liable to the Utility for three times the value of the actual service obtained in addition to the cost of correction.

2.07.095 Future Services

At some future date the Utility Commission may assume responsibility to provide sewage, electrical, gas, telephone, cable TV or other utility services.

2.07.096 Maintenance Schedule

The Utility Commission shall develop and follow a regular schedule of maintenance service for each utility service provided.

2.07.097 Personnel

The Utility Commission shall have the full authority (within Tribal personnel policies and procedures) to hire, evaluate and discipline or fire, if necessary, the personnel required to manage, operate and maintain the Public Utilities. Existing Tribal Staff may be used and employed by the Utility Program to provide necessary maintenance and management services through agreements approved by the Tribal Council and the Utility Commission. The specific personnel policies of the Tribe shall be followed. Job descriptions for all employees will be developed and followed.

2.07.098 Purchasing

The Utility system operator may make or approve purchases from the petty cash fund for amounts up to \$200.00. Above this amount, the Utility Commission treasurer must give approval and disburse funds according to appropriate sections of this ordinance. An accurate account and receipts of all expenditures will be kept.

2.07.099 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. A record of tools and the individual to whom they were assigned shall be maintained. An inventory of tools, cost and conditions will be kept on file.

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

2.07.100 Inventory and Depreciation

An accurate inventory and depreciation schedule of tools, equipment, and supplies will be maintained. It shall be kept up to date.

A reserve supply of repair 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.

2.07.101 Public Relations

The Utility Commission shall keep customers notified about changes in fees and rate schedules, water quality regulatory compliance, levels of service and any other information which may affect customers. 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 in writing to any Utility Commission member for resolution and action. The Utility Commission will resolve such complaints at the next regularly scheduled meeting of the Commission. The Chairman may call a special meeting of the Commissioners to resolve complaints as deemed necessary. The process for filing a grievance is outlined in Section 2.07.076 of this Ordinance.

2.07.102 Emergency Notification

An emergency notification plan will be developed by the Utility Commission 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) Any other conditions which may adversely affect the health of the community residents or visitors.

2.07.103 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 utilities operations, maintenance and management. The goal of the training program shall be Washington State certification as Water Distribution Manager or Specialist.

2.07.104 Limits of Responsibility

The Program 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 Program, and that is approved and signed by the Utility Commission and owner of such facilities. 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, garbage storage facilities, driveways or parking lots, hydrants or lighting.

2.07.105 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 Utility Program 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 Program shall give the customer at least 24 hours notice prior to requesting permission to enter and inspect. In addition, right to access for meter readings exists at all reasonable times without prior warning or a case of emergency. 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 them to the affected customer's bill.

2.07.106

The Program may shut off water 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 Program shall not be responsible for consequent damage as a result of lack of water during authorized 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.

2.07.107 Permits

No connection, re-connection with, disconnections from, or other private use of any Department water or sewer system, road, appurtenance or other utility service or facility shall be made without a written permit by the Utility Commission.

2.07.108 Water Shortage - Service Preference

In cases of a water shortage proclaimed by the Utility Commission, the Program shall regulate the amount of water customers may be allocated. The Utility Commission also may give preference to the customers and/or amounts of water to be allocated, provided the Utility Commission allocates water according to public necessity or convenience, and provides for fair allocations between customers. Any customer violating a legal allocation may have his/her water service discontinued. Service shall be resumed only upon payment of the approved re-connection fee and any penalties.

2.07.109 Unnecessary Waste of Water

The Utility Commission reserves the right to assess a penalty and/or 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 condition is not corrected within 24 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 re-connection fee, penalties and any other accounts in arrears to the Utility Commission

2.07.110 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 comfortable, healthy and aesthetically pleasing life styles. 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 Utility Commission.

New or existing homes or buildings not connected to the Community Water system at the time of the adoption of this ordinance shall not be allowed to connect to the Community Water System unless the said facilities are equipped with the following: 2 GPM (gallons per minute) shower heads; 2 GPM kitchen faucets or aerators; 1 GPM urinal; 1.5 GPM lavatory faucets or aerators; 1.6 GPF (gallons per flush) ultra low flow toilets.

All applicants for new service must show proof that the above approved devices are installed prior to connection to the systems.

2.07.111 New Customer Services

A New Customer is one who has never been on the system before. Any dwelling within the service area of the Utility Program shall be eligible for services, provided all of the following conditions are met:

- (a) Facilities and resources are adequate to meet additional load;
- (b) New customer agrees to adhere to this Ordinance; and
- (c) Approval by the Utility Commission.

Customer Obligations

2.07.120 Conditions for Service Payments

As a condition for receiving utility services from the Utility Program, the customer agrees to comply with all provisions of this Ordinance, and any regulations duly adopted by the Utility Commission 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 Program.

2.07.127 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 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 applicable regulations. The customer shall be liable for any damage to the Department's lines, guests, tenants, agents, employees, contractors, licensees or other persons under the customer's control or authority.

2.07.127 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 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 Program, or up until service is terminated, whichever comes first.

2.07.127 Water Shortages

During water shortages declared by the Utility Commission, the customer shall limit the use of water according to allocations established by the Utility Commission.

2.07.127 Inspections

The customer shall not unreasonably withhold permission for the Program to enter and inspect the Program's and customer fixtures, lines and equipment when necessary to insure that they are operating in a manner what would not likely disrupt or interfere with utility services. The customer shall be liable for any costs or related expenses caused by unreasonable withholding of permission. Normal inspection of water meters is necessary, and must be granted at all reasonable times without prior warning.

2.07.127 Permits

The customer shall obtain written permission from the Utility Commission prior to making any connection, re-connection with, disconnection from, or other private use of any Program water or sewer system, road, appurtenance, or other utility service or facility. The customer shall obtain written permission from the Utility Commission and show evidence of compliance with the SKEPA review process prior to constructing any private water or sewer system, or other private utility.

2.07.127 Cross-Connections

The customer shall not make a cross-connection with the Tribal Public Water supply. A cross-connection is defined as any physical connection between the Tribal Public Water system and another piping system, either water or waste. Any individual source must be totally disconnected from the household plumbing prior to connection to the Tribal Public Water Supply. "Disconnection" done solely by a valve shall not be allowed.

2.07.127 Hazardous Waste Disposal

No customer shall dispose of any toxic, radioactive or otherwise hazardous waste into any Utility Program or private sanitary or storm sewage system. Hazardous and toxic wastes include but are not limited to: oil, pesticides, gasoline, organic solvents, paint poisons and other manufactured chemical compounds.

Fee Schedules and Billing

2.07.140 Fee Schedule Establishment

The schedule of fees for utility services shall be set annually by the Utility Commission. The fee schedule will 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 Commission 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. The base rate will rest until all of the houses on the water system are metered.

The Utility Commission may authorize incentives for pre-payment such as: pay twelve months in advance, get one month free; volunteer service in lieu of money; discount for on time payment.

There will be special fees set up for Senior Citizens. A senior citizen is anyone over the age of 55. At this date, Seniors do not pay for water service.

2.07.141 Notice to Customers

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

2.07.142 Billing Responsibility

The Utility Commission and/or Utility Program is responsible for billing customers for Utility Services. The billing service, however, may be contracted to the Tribe, Housing Authority, other agencies or firms at the discretion of the Utility Commission and Tribal Council.

2.07.143 Monthly Statement

Each month the Program shall mail to all utility 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 month;
- (c) The Billed cost of the current month's service, plus an accounting of bills or charges past due;

- (d) The date that payment is due; and
- (e) The location to mail or deliver payment.

2.07.144 Due Date

The monthly date on which payment will be due shall be established by Utility Commission regulations.

2.07.145 Payments Past Due

Payments not received within 10 days after the established due date are considered past due. The Program 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.

2.07.146 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.

2.07.147 Notice of Delinquency

The Program shall immediately notify the customer in writing once the 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.

2.07.148 Advance Deposits

The Utility Commission 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 Commission 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 shall be credited to the customer's account.

Enforcement; Penalties; Sanctions

2.07.160 Authority and Enforcement

The Utility Commission is hereby authorized by the Tribal Council to collect established fees for service and to impose sanctions and penalties for non-payment. The Utility Commission 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.

2.07.161 Attachment of Customers' Property

The Utility Commission shall not seek to attach customers' property, nor seek to have fines assessed by Tribal Court, except in limited cases of blatant or continued abuses or destruction of property.

2.07.162 Penalty Schedule

The Utility 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 ordinance. The penalty schedule shall be reviewed for appropriateness annually by the Utility Commission.

2.07.163 Sanctions Authorized

The following sanctions may be imposed by the Utility Commission for failure of the customer to comply with any provisions of this ordinance or with any duly adopted regulation of the Utility Commission:

- (a) Termination of service(s)
- (b) Assessment of penalties based on a penalty schedule adopted by regulation of the Utility Commission;
- (c) Assessment of late charges based on a schedule adopted by regulation of the Utility 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 suit for damages in a court of competent jurisdiction; and
- (g) Referring violations that may involve criminal conduct to the police or prosecutor.

2.07.164 Sanctions Guidelines

The Utility Commission 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 ordinance or other applicable law, or whether imposition is discretionary;
- (b) The minimum sanction needed to effect compliance;
- (c) The irreparable harm to the customer and/or family if the sanction is imposed;
- (d) The irreparable harm to operation of the Program, and to the Tribe, if the sanction is not imposed;

- (e) The customer's past record of compliance or non-compliance, or good faith efforts to achieve compliance;
- (f) The customer's statements or behavior indicating the likely success of a given sanction securing compliance;
- (g) The irreparable harm to other persons or property if the sanction is not imposed; and
- (h) The effectiveness of similar sanctions in securing compliance in other cases.

Miscellaneous Provisions

2.07.170 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.

2.07.171 Amendments

The Skokomish tribal Council has the power to amend this ordinance at any time. The Tribal Council shall act upon proposed amendments to this ordinance, submitted for action by the Utility Commission, by approval or disapproval of such proposed amendments.

2.07.172 Suspension of Ordinance

No employee, officer, contractor or agent of the Skokomish Indian Tribe is authorized to suspend or alter any of the provisions of this ordinance without the formal approval of the Skokomish Tribal Council.

2.07.173 Emergency Response Plan

An Emergency Response Plan (ERP) shall be prepared and maintained by the Utility Program and included in Appendix A to this ordinance to guide personnel response to ordinary and unusual system malfunctions. The ERP shall consist of a Vulnerability Assessment, Contingency Plan, and Emergency Response Procedures. The ERP shall include standard operating procedures, emergency alert rosters, lists of equipment supplies, technical representative, adjacent utilities, and special need customers (e.g. kidney dialysis users). Proper staffing, training, and communications shall be maintained as well as maintenance of a suitable repair parts inventory.