

TITLE 45

TRIBAL BUILDINGS, PROPERTY, AND PUBLIC WORKS

Table of Contents

CHAPTER I - PUBLIC WORKS

<u>45.01</u>	<u>GENERAL PROVISIONS</u>	
50.01.01	Purpose.....	1
50.01.02	Construction.....	1
50.01.03	Application of Tribal Law or Custom.....	2
45.01.01	Title and Date.....	1
45.01.02	Purpose.....	1
45.01.03	Policy	1
45.01.04	Jurisdiction.....	1
45.01.05	Definitions.....	1
<u>45.02</u>	<u>UTILITY PROGRAM AND UTILITY COMMITTEE BOARD</u>	
45.02.01	Establishment of Utility Program	3
45.02.02	Utility Committee	3
45.02.03	Utility Committee - Operating organization	3
45.02.04	Utility Committee - Powers and Responsibilities	3
45.02.05	Utility Committee - Membership.....	4
45.02.06	Term of Office	4
45.02.07	Utility Committee - Method of Appointment:	4
45.02.08	Utility Committee - Vacancies.....	4
45.02.09	Officers	5
45.02.10	Duties of the Officers.....	5
45.02.11	Meetings.....	5
45.02.12	Quorum and Voting	6
45.02.13	Meeting Agenda.....	6
45.02.14	Compensation	6
45.02.15	Public Hearings.....	6
<u>45.03</u>	<u>MANAGEMENT AND FINANCES</u>	
45.03.01	Management Personnel	6
45.03.02	Annual Budget	7
45.03.03	User Fee Schedule.....	7
45.03.04	Fiscal Year	7
45.03.05	Depository.....	7

45.03.06	Investments	7
45.03.07	Disbursements and Receipts	7
45.03.08	Records and Accounts.....	8
45.03.09	Exclusive Use of Funds	8
45.03.10	Audit and Reports	8
45.03.11	Bonding.....	8
45.03.12	Insurance	8
45.03.13	Petty Cash	8
45.03.14	Regulations and Policy.....	8
45.03.15	Regulations and Policies: Suspension or Amendment.....	9
45.03.16	Amendments	9
45.03.17	Grievances.....	9
45.03.18	Non-Waiver of Sovereign Immunity	10

45.04 UTILITY PROGRAM - OPERATION

45.04.01	Services Provided.....	10
45.04.02	Water Service.....	10
45.04.03	Meters	10
45.04.04	Reconnection of Service	10
45.04.05	Public Water Use Requirements	11
45.04.06	Obtaining Service Without Authorization	11
45.04.07	Future Services.....	11
45.04.08	Maintenance Schedule	11
45.04.09	Personnel.....	11
45.04.10	Purchasing.....	12
45.04.11	Equipment	12
45.04.12	Inventory and Depreciation.....	12
45.04.13	Public Relations	12
45.04.14	Emergency Notification	13
45.04.15	Staff Training	13
45.04.16	Limits of Responsibility.....	13
45.04.17	Right of Entry - Inspection.....	13
45.04.18	Disruption of Service	14
45.04.19	Permits	14
45.04.20	Water Shortage - Service Preference	14
45.04.21	Unnecessary Waste of Water	14
45.04.22	Conservation of Resource	15
45.04.23	New Customers Services	15

45.05 CUSTOMER OBLIGATIONS

45.05.01	Conditions For Service Payments	15
45.05.02	Maintenance; Repairs; Liability	15
45.05.03	Customer Termination of Service; Abandonment	16

45.05.04	Water Shortages	16
45.05.05	Inspections	16
45.05.06	Permits	16
45.05.07	Cross-Connections	16
45.05.08	Hazardous Waste Disposal	16
<u>45.06</u>	<u>FEE SCHEUDULES AND BILLING</u>	
45.06.01	Fee Schedule Establishment	17
45.06.02	Notice To Customers	17
45.06.03	Billing Responsibility	17
45.06.04	Monthly Statement	17
45.06.05	Due Date	18
45.06.06	Payment Past Due	18
45.06.07	Delinquent Account	18
45.06.08	Notice of Delinquency	18
45.06.09	Advance Deposits	18
<u>45.07</u>	<u>ENFORCEMENT; PENALTIES; SANCTIONS</u>	
45.07.01	Authority and Enforcement.....	19
45.07.02	Attachment of Customers Property.....	19
45.07.03	Penalty Schedule	19
45.07.04	Sanctions Authorized.....	19
45.07.05	Sanction Guidelines	20
<u>45.08</u>	<u>MISCELLANEOUS PROVISIONS</u>	
45.08.01	Validity, Severability	20
45.08.02	Amendments	20
45.08.03	Suspension of Chapter	20
45.08.04	Emergency Response Plan	21

TITLE 45
TRIBAL BUILDINGS, PROPERTIES AND PUBLIC WORKS

CHAPTER I – PUBLIC WORKS

45.01 GENERAL PROVISIONS

45.01.01 Title and Date

This Chapter shall be titled: Nisqually Public Works Ordinance. The ordinance shall become immediately effective upon enactment of a resolution for adoption, by the Nisqually Tribal Council.

Historical and Statutory Notes

The word “ordinance” changed to subchapter in 2003 Tribal Code formatting amendments where the context required.

The word “subchapter” changed to “chapter” throughout this Title during the 2009 reformatting.

45.01.02 Purpose

The purpose of the Nisqually Public Works Ordinance is to define the policies, establish an organization and identify the necessary rules and regulations for: (1) the operation, maintenance and management of the various public utilities located on the Nisqually Indian Reservation.

45.01.03 Policy

It shall be the policy of the Nisqually Indian Tribe to operate, maintain and manage the public utilities and services on the Nisqually 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 Nisqually 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.

45.01.04 Jurisdiction

The authority to establish a Tribal Utility Program and to levy appropriate user fees to all residents and organizations operation on the Nisqually Indian Reservation is provided by Tribal Resolution No. 9-1977 and Ordinance No. 3-1979.

45.01.05 Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be set forth in this section.

- (a) Appurtenances - Real and personal property owned by the Utility Program or the Tribe located on, near or under the roadways and streets, such as fire hydrants and valves.
- (b) Customer - 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.
- (c) Customer Lines - The potable water lines and sanitary sewer lines immediately adjacent to, inside of, or under a customer's residence or their building or property, which are either connected to utility service lines or are maintained by the customer separately from utility service lines.
- (d) Distribution System Lines - Are those potable water lines maintained by the Utility Program by which water utility services are provided to customers.
- (e) Meter - A device, owned by the Utility Program, for measuring the amount of water services provided to a particular customer.
- (f) Manager - An individual hired by or appointed by the Tribal Council to oversee and manage the operation of the Utility Program.
- (g) Operator - An individual hired by or appointed by the Tribal Council or manager to provide direct day to day preventive maintenance and operational service of the public water and sanitary sewer utilities.
- (h) On-Site Sewage Treatment and Disposal systems - 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.
- (i) Off-Reservation - Any area located outside of the exterior boundaries of the Nisqually Indian Reservation.
- (j) Regulation - Rule of law or procedure duly adopted by the Tribal Council for purposes of implementing the requirements of this Chapter.
- (k) Contractor - Any individual, firm or organization who contracts with the Utility Board to provide environmental services or utility repairs design, inspection, reconstruction or operation.
- (l) Utility Committee - Is responsible for, and authorized to manage, the Utility program of the Nisqually Indian Tribe, as established by this Chapter.
- (m) Utility Program - A program of the Nisqually Indian Tribe authorized to operate the utility services provided by the Tribe.
- (n) Program - The Utility Program of the Nisqually Tribe.

(o) Vendor - 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 Nisqually Indian Reservation.

(p) Shall, May - “Shall” is mandatory; “May” is permissive.

Historical and Statutory Notes

The words “Article II” changed to “section” in the first sentence of this section during the 2009 reformatting.

45.02 UTILITY PROGRAM AND UTILITY COMMITTEE BOARD

45.02.01 Establishment of Utility Program

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

45.02.02 Utility Committee

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

45.02.03 Utility Committee - Operating organization

The Utility Committee shall operate as a subordinate unit of tribal government, independent in its daily operation, but responsible to the Tribal Council for its action. The methods of appointment, in terms of office and operating procedures of the Utility Committee shall be set forth in this Chapter in accordance with Resolution No. 54-1992 and the Plan of Operation of the Nisqually Tribal Enterprise.

Historical and Statutory Notes

Tribal Council Resolution 19-2004 dated March 24, 2004 rescinds Resolution 54-1992 referenced in this section. Resolution 54-1992 authorized the Enterprise Committee to serve as the Utility Committee. Resolution 19-2004 appoints a separate Utility Committee to assume the Utility management oversight responsibilities.

45.02.04 Utility Committee - Powers and Responsibilities

The Utility Committee 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 Utility Committee shall have to power to:

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

- (b) Provide for the hiring and compensation of appropriate management and personnel; said hiring and compensation to conform with established Tribal personnel policies and salary guide lines;
- (c) Adopt appropriate regulation to implement the requirements of this Chapter;
- (d) Authorize disbursement of funds for operation, maintenance, improvements to the system, elders and low income support 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 Nisqually 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.

45.02.05 Utility Committee - Membership

The Utility Committee shall be composed of five (5) Tribal Members appointed by the Tribal Council to serve on the Utility Board.

45.02.06 Term of Office

(None listed)

45.02.07 Utility Committee - Method of Appointment:

The Tribal Council will replace members upon resignation, or if a member has not acted in the best interest of the Committee and the Tribal Council decides by a two-thirds (2/3) vote to replace that person.

45.02.08 Utility Committee - Vacancies

If a Board Member 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 Utility Committee Member's position vacant. If any Committee Member misses two consecutive Utility Committee 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 Committee Members vacancies prevents establishing a quorum for purposes of conducting business, the Tribal Council shall act as the interim Utility Committee until such time as the filling of Committee Member vacancies allows for a quorum.

45.02.09 Officers

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

45.02.10 Duties of the Officers

Officers of the Utility Committee shall assume the following duties:

(a) Chair person: Shall preside at all meetings; call and arrange all meetings; be responsible for general management of the Utility Committee'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 Committee's affairs.

(c) Secretary/Treasurer: Shall keep or cause to be kept a complete and accurate record of all meetings and shall maintain all correspondences of the Utility Committee. The Tribal Accounting Department shall be responsible for maintaining financial resources of the Utility Program and shall make all investments for the Utility Committee in accordance with appropriate section of this Chapter. The secretary/treasurer shall report the Program's financial status quarterly at regularly scheduled Tribal Council meetings and shall present to the Council Members for their action all requests for funds to meet the Program's financial obligations and shall prepare an annual financial statement for submission to the Tribal Council for the general membership meeting.

45.02.11 Meetings

The Utility Committee 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, in writing, to schedule a special meeting of the Utility Committee. If the Chairperson fails to schedule a meeting within five days after receipt of a written request from a Utility Committee member, any other two Committee members may call such a meeting.

Meetings shall be held in a public place, and the Utility Committee shall provide at least 5 days public notice of 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.

45.02.12 Quorum and Voting

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

45.02.13 Meeting Agenda

Regular meetings of the Utility Committee 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 the Accounting Department or Manager on Financial Affairs
- (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

45.02.14 Compensation

Members of the Utility Committee shall serve without monetary compensation, except as determined by the Tribal Council. The committee members shall initiate prevailing government rates for mileage, per diem, or other costs, consistent with tribal policy provided that funds are available within the Utility Program budget approved by the Utility Committee and ratified by the Tribal Council.

45.02.15 Public Hearings

The Utility Committee shall convene public hearings to discuss changes in utility rates assessed to users of tribal public utilities and substantial changes to this Chapter. All customers will be notified of tribal public hearings in accordance with subsection 13.02.07 of Title 13, the election ordinance of the Nisqually Indian Tribe.

45.03 MANAGEMENT AND FINANCES

45.03.01 Management Personnel

The Utility Committee shall manage the business and operating affairs of the Utility Program. The Utility Committee 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 Committee may delegate only those management duties that are not specifically designated as duties to be performed exclusively by the Utility Committee.

45.03.02 Annual Budget

The Utility Committee shall establish an annual budget enumerating the necessary costs for 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.

45.03.03 User Fee Schedule

The annual budget shall be used to determine a fee schedule to be assessed to the users of Tribal Public Utilities. The budget and fee schedule shall be approved by the Utility Committee and ratified by the Tribal Council.

45.03.04 Fiscal Year

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

45.03.05 Depository

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

45.03.06 Investments

Funds on deposit in excess of 30 working days may be invested in insured deposits at a commercial bank, savings and loan association or investment company offering the highest interest rate, providing that investment deposits shall have immediate liquidity. Investment deposits shall be made by the Utility Committee Treasurer. Withdrawal of investments requires the approval of the Utility Committee. Withdrawals from accounts shall be signed by two of the officers of the Utility Committee.

45.03.07 Disbursements and Receipts

The Utility Committee 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 of Utility Committee members or employees properly designated by the Utility Committee. The Checks written on accounts shall be signed by two of the Officers of the Utility Committee. 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.

45.03.08 Records and Accounts

Suitable financial records shall be maintained for all expenditures, receipts from payments for services, investments and returns on investments, and 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 any time requested.

45.03.09 Exclusive Use of Funds

The funds accrued by the Utility Committee and kept on deposit are for the exclusive use of the Utility and Service Program for the necessary operation, maintenance, and management of the Tribal public utilities. These funds may not be 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 Committee or Program by other Tribal Departments.

45.03.10 Audit and Reports

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

45.03.11 Bonding

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

45.03.12 Insurance

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

45.03.13 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 Utility Committee will reimburse or pay in full, 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 Utility Committee Secretary/Treasurer and Accounting Department.

45.03.14 Regulations and Policy

The Utility Committee shall have the authority to adopt appropriate regulations and policies as needed to implement the provisions contained in this Chapter. 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 Tribal 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.

45.03.15 Regulations and Policies: Suspension or Amendment

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

45.03.16 Amendments

The Utility Authority shall recommend amendments to this Chapter 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.

45.03.17 Grievances

Any customer or any applicant for utility services, who is aggrieved by any action of the Utility Program or the Utility Committee may file a written grievance with the Utility Committee. The Utility Committee shall abide by the regulation set forth in this Chapter and shall handle such grievances in a manner which provides for due process of law. The procedure for grievances shall be as follows:

- (a) The customer shall present a written or oral grievance to the Utility Committee or one of its members.
- (b) The grievance shall be addressed at the next scheduled Utility Committee meeting or within one week of the filing date.
- (c) The customer shall be informed of the date, time and place of the meeting when the grievance will be discussed.
- (d) The customer may attend and present evidence on his or her behalf.
- (e) The grievance reply shall be given to the customer with a copy sent to the Tribal Administrator within three (3) working days after the Utility Committee meeting.

All decisions by the Utility Committee on matters that have been submitted for grievance under the Program's grievance procedure shall be considered final.

Historical and Statutory Notes

This subsection amended as part of 2003 amendments to eliminate the words "Step I" and insert lettered subsections for each step in the process.

45.03.18 Non-Waiver of Sovereign Immunity

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

45.04 UTILITY PROGRAM - OPERATION

45.04.01 Services Provided

The services provided by the Utility Program shall include domestic water. Additional services such as Elders and low income support, community system improvement projects may be provided upon approval by the Utility Committee and ratification by the Tribal Council.

45.04.02 Water Service

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

45.04.03 Meters

All homes hereafter that are connected to the community water system are required to install a water meter. All meters for measurements of utility services provided shall be installed in accordance with the requirements of the Public Works Department, 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 owner 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.

45.04.04 Reconnection of Service

If the water has been shut off by the Utility Committee due to a customer's non-compliance with any provision of this Chapter, a charge of ten dollars (\$10.00) will be charged against the property to be paid, and compliance attained before re-connection may occur. The Utility Committee shall

have the authority to waive the penalty charge in cases involving extenuating circumstances and when the shut-off is not caused by or through any fault or negligence of the property owner.

Reconnection may be performed by active Utility Committee Members, Water Systems Manager, and the Water System Technician. The customer must have proof of payment of the reconnection fee, and proof of the establishment of a payment plan on their account from the Accounting Department.

45.04.05 Public Water Use Requirements

The owner of each lot or parcel of real property within the area served by the tribal water system 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 under the following condition. 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,. 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.

45.04.06 Obtaining Service Without Authorization

No person shall obtain services from the utility facilities without authorization. Any person who obtains such unauthorized services by connection 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.

45.04.07 Future Services

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

45.04.08 Maintenance Schedule

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

45.04.09 Personnel

The Utility Committee 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 Committee. The specific personnel policies of the Tribe shall be followed. Job descriptions for all employees will be developed and followed.

45.04.10 Purchasing

The Utility system Manager may make or approve purchases from the petty cash fund for amounts up to \$200.00. Above this amount, the Utility Committee Chairperson must have approval and disburse funds according to appropriate sections of this Chapter. An accurate account and receipts of all expenditures shall be kept.

45.04.11 Equipment

All utilities equipment shall be maintained according to the established maintenance schedule and quickly repaired when necessary so that disruptions of 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, costs and conditions will be kept on file.

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

45.04.12 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.

45.04.13 Public Relations

The Utility Committee 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, 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 Committee member for resolution and action. The Utility Committee will attempt to resolve such complaints at the next regularly scheduled meeting of the Committee Members. The Chairperson may call a special meeting of the Committee Members to resolve complaints as deemed necessary.

45.04.14 Emergency Notification

An emergency notification plan will be developed by the Utility Committee 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.

45.04.15 Staff Training

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

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

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

45.04.16 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. Such agreement must be approved and signed by the Utility Committee. The program shall not be responsible 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.

45.04.17 Right of Entry - Inspection

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. 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 unreasonable withheld, the Program may assess court costs and related expenses and add them to the affected customer's bill.

45.04.18 Disruption of Service

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 disruption 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.

45.04.19 Permits

No connection, reconnection with, dissections from, or other private uses 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 Committee.

45.04.20 Water Shortage - Service Preference

In cases of a water shortage proclaimed by the Utility Committee, the Program shall regulate the amount of water any customer may be allocated. The Utility Committee also may give preference to the customers and / or amounts of water to be allocated, provided the Utility Committee allocates water according to public necessity and 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 penalties.

45.04.21 Unnecessary Waste of Water

The Tribal Council 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 evidence 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 Committee.

45.04.22 Conservation of Resource

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 to secure the comfortable, healthy and aesthetically pleasing lifestyle the Tribe enjoys. The Program may offer assistance and service to customers for water conservation and other material resource conservation and recovery as determined to be feasible by the Utility Committee.

New or existing homes or buildings not connected to the Community Water System, at the time of the adoption of this Chapter, 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 system.

45.04.23 New Customers Services

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 Chapter; and
- (c) Approval by the Utility Committee

45.05 CUSTOMER OBLIGATIONS

45.05.01 Conditions For Service Payments

As a condition for receiving utility services from the Utility Program, the customer must comply with all provisions of this Chapter, and any regulations duly adopted by the Utility Committee 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.

45.05.02 Maintenance; Repairs; Liability

The customer shall be responsible for maintaining and repairing water and sewer lines located on or in the customer's grounds, building or residence in compliance with applicable regulations. The customers 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 Program's lines,

equipment or other property caused by the customer, his family, guests, tenants, agents, employees, contractors, licensees or other persons under the customer's control or authority.

45.05.03 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 week prior to the date the customer planned 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.

45.05.04 Water Shortages

During water shortages declared by the Tribal Council, the customer shall limit the use of water according to allocations recommended by the Utility Committee and established by Tribal Council.

45.05.05 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 ensure that they are operating in a manner that would not likely disrupt or interfere with utility services. The customer shall be liable for any costs or related expenses caused by unreasonable withholding of permission.

45.05.06 Permits

The customer shall obtain written permission from the Utility Committee prior to making any connection, re-connection with, disconnection from, or other private use of any 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 Committee prior to constructing any private water or sewer system, or other private utility.

45.05.07 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.

45.05.08 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.

45.06 FEE SCHEDULES AND BILLING

45.06.01 Fee Schedule Establishment

The schedule of fees for utility services shall be set annually by the Utility Committee. 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 Committee is authorized to levy as provided under various sections of this Chapter. The Fee schedule may be adjusted as needed to meet utility operating expenses.

The following initial charges, paid monthly and revisable by the Utility Committee, shall be levied against users of the Nisqually Indian Reservation Community Water System:

- (a) Single family dwellings: \$15.00 / month.
 Elders: \$7.50 / month.
- (b) Tribal Facilities (tribal center, Law Enforcement, community garden): \$86.00 / month.
- (c) Commercial Facilities (Bingo, trading post). \$86.00 / month.

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

45.06.02 Notice To Customers

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

45.06.03 Billing Responsibility

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

45.06.04 Monthly Statement

Each month the Program shall mail to all utility customer 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.

45.06.05 Due Date

The monthly date on which payment will be due shall be established by Utility Committee regulation.

45.06.06 Payment 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.

45.06.07 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.

45.06.08 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. If a customer feels the notice is incorrect or is aggrieved by the action of the Utility Committee they can file a written grievance with the Utility Committee as stated in section 4.17.

45.06.09 Advance Deposits

The Utility Committee 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 Committee 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 or in arrears. Any remaining deposit funds will be credited to the customer's account.

45.07 ENFORCEMENT; PENALTIES; SANCTIONS

45.07.01 Authority and Enforcement

The Utility Committee is hereby authorized by the Tribal Council to collect established fees for service and to impose sanctions and penalties for non-payment. The Utility Committee shall enforce its regulations, fee collections and provisions of this Chapter by shutting off water service of any and all violators and delinquent bill-payers or imposing other penalties and sanctions as authorized.

45.07.02 Attachment of Customers Property

The Utility Committee 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.

45.07.03 Penalty Schedule

The Utility Committee shall develop and recommend a penalty schedule for adoption by Tribal Council which outlines specific penalties, fines and assessments for violation and non-compliance with the provision of this Chapter. The penalty schedule shall be reviewed for appropriateness annually by the Utility Committee.

45.07.04 Sanctions Authorized

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

- (a) Termination of service(s)
- (b) Assessment of penalties based on a penalty schedule adopted by regulation of the Utility Committee;
- (c) Assessment of late charges based on a schedule adopted by regulation of the Utility Committee;
- (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 violation that may involve criminal conduct to the tribal police or tribal prosecutor.

45.07.05 Sanction Guidelines

The Utility Committee 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 Chapter 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 the 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 statement 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.

45.08 MISCELLANEOUS PROVISIONS

45.08.01 Validity, Severability

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

45.08.02 Amendments

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

45.08.03 Suspension of Chapter

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

45.08.04 Emergency Response Plan

An Emergency Response Plan (ERP) shall be prepared and maintained by the Utility Program and include in Appendix A to this Chapter 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.