

SHOALWATER BAY TRIBE  
TITLE 22  
"TRIBAL UTILITIES AUTHORITY CODE"

RULES AND REGULATIONS  
AND  
GENERAL BY-LAWS  
GOVERNING OPERATION AND MAINTENANCE  
OF THE  
SHOALWATER BAY TRIBAL COMMUNITY  
ENVIRONMENTAL SERVICES

REVIEWED 10/20/93  
AT PUBLIC HEARING  
RESOLUTION#10-21-93-75  
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10-21-93

# UTILITY AND ENVIRONMENTAL SERVICES CODE

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CODE NUMBER  
SHOALWATER BAY TRIBAL COUNCIL  
TRIBAL UTILITY AND ENVIRONMENTAL SERVICES CODE

ARTICLE I

GENERAL PROVISIONS

SECTIONS 1.01. TITLE AND DATE: This code shall be titled; the Tribal Utility and Environmental Services code. The code shall become effective immediately upon adoption by resolution by the Shoalwater Bay Tribal Council.

SECTION 1.02 PURPOSE: The purpose of the Shoalwater Bay Tribal Utility and Environmental Service Code 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 Shoalwater Bay Indian Reservation; and (2) management for the provision of essential environmental services within the Reservation Community.

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

SECTION 1.04. JURISDICTION: The authority to establish a Tribal Utility and Environmental Services Organization and to levy appropriate user fees to all residents and organizations operating on the Shoalwater Bay Indian Reservation is provided in Article VI Section (1)(w) of the Shoalwater Bay Tribal Constitution.

## ARTICLE II

### DEFINITION OF TERMS

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

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

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

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

SECTION 2.05. GARBAGE: "Garbage" shall mean all degradable and non-degradable refuse and solid waste without economic value that is generated through the course of normal living by the residents and organizations of the community.

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

SECTION 2.07. COLLECTION LINES: "Collection lines" are those sanitary sewer lines maintained by the Utility and Environmental Services Department by which sanitary sewer collection and disposal services are provided by customers.

SECTION 2.08. METER: "Meter" is a device, owned by the Utility and Environmental Services Department, for measuring the amount of water provided to a particular customer.

SECTION 2.09. MANAGER: "Manager" shall mean an individual hired by or appointed by the Utility Authority to oversee and manage the operation of the Utility and Environmental Services Department.

SECTION 2.10. OPERATOR: "Operator" shall mean an individual hired by or appointed by the Utility Authority to oversee and manage the operation of the Utility and Environmental Services Department.

SECTION 2.11. ON-SITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS: "On-site sewage treatment and disposal systems" shall mean individual or community septic tanks and subsurface drainfields and associated appurtenances that collect, treat and dispose of liquid waste generated by customers.

SECTION 2.12. OFF-RESERVATION: "Off-reservation" is any area located outside of the exterior boundaries of the Shoalwater Bay Indian Reservation.

SECTION 2.13. REGULATION: "Regulation" is a rule of law or procedure duly adopted by the Utility Authority for purposes of implementing the requirements of this ordinance.

SECTION 2.14. SEWAGE DISPOSAL SYSTEM CLEANER: "Sewage disposal system cleaner" shall mean any individual, firm, contractor or organization who the Utility Authority contracts with, to pump out on-site sewage treatment and disposal systems and dispose of the waste material and/or to repair the on-site sewage treatment and disposal systems located on the Shoalwater Bay Indian Reservation.

SECTION 2.15. TRIBAL COMMUNITY: "Tribal Community", for the purposes of this ordinance, shall include, but not necessarily be limited to enrolled Shoalwater Bay Tribal members.

SECTION 2.16. CONTRACTOR: "Contractor" shall mean any individual, firm or organization who contracts to provide environmental services or utility repairs, design, inspection, reconstruction or operation.

SECTION 2.17. UTILITIES AND ENVIRONMENTAL SERVICES: "Utility and Environmental Services" are those services necessary for supporting residential and commercial development, including, but not limited to, water, sewer and garbage collection.

SECTION 2.18. UTILITY AUTHORITY: "Utility Authority" is the agency responsible for, and authorized to manage, the Utility and Environmental Services Department of the Shoalwater Bay Indian Tribe, as established by this code.

SECTION 2.19. UTILITY AND ENVIRONMENTAL SERVICES DEPARTMENT: "Utility and Environmental Services Department" is a governmental department of the Shoalwater Bay Indian Tribe authorized to operate the utility services provided by the Tribe.

SECTION 2.20. DEPARTMENT: "Department" shall mean the Utility and Environmental Services Department of the Shoalwater Bay Indian Tribe.

SECTION 2.21 VENDOR: "Vendor" is any individual firm, contractor or organization who supplies parts, equipment, supplies and/or services to the Utility and Environmental Services Department.

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

SECTION 2.23 SEWAGE: "Sewage" shall mean all water carried wastes.

SECTION 2.24 PUBLIC UTILITIES: "Public Utilities" shall mean all utilities owned, operated, or managed by the Shoalwater Bay Indian Tribe or its designated authority, on and for the Shoalwater Bay Indian Reservation.

SECTION 2.25. ESSENTIAL ENVIRONMENTAL SERVICES: "Essential Environmental Services" shall mean water, sewer and solid waste services.

ARTICLE III

UTILITY AND ENVIRONMENTAL SERVICES DEPARTMENT  
AND  
UTILITY AUTHORITY

SECTION 3.01. ESTABLISHMENT OF UTILITY AND ENVIRONMENTAL SERVICES DEPARTMENT: There is hereby established the Shoalwater Bay Tribal Utility and Environmental Services Department having the responsibility for operating and maintaining the tribal public utilities and providing essential community environmental services directly or by contract.

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

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

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

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

- (1) Levy and collect reasonable fees for utility services, including but not limited to monthly services charges, connection fees, penalties, construction permits, and other assessments deemed necessary by the Utility Authority and approved by the Tribal Council.
- (2) Provide for the hiring and compensation of appropriate management and maintenance personnel:
- (3) Adopt appropriate regulations to implement the requirements of this Code;
- (4) Authorize disbursement of funds for operation, maintenance and repair of utility services.
- (5) Contract with vendors and contractors to assure that safe and reliable environmental services are available to and utilized by the residents of the Shoalwater Bay Indian Reservation.
- (6) Authorize investment of Utility and Environmental Service Department funds.
- (7) Impose sanctions on customers in accordance with Article VIII Section 8.04 of this code.

SECTION 3.05 UTILITY AUTHORITY - MEMBERSHIP: The Utility Authority shall be composed of five persons appointed by the Tribal Council. One person shall be selected from the Tribal Council, and four persons selected from the general Tribal Community.

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



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

- Council Representative (position 1) - 1 year
- At Large Representative (position 2) - 2 years
- Community Representative (position 3) - 1 year
- Community Representative (position 4) - 2 years
- Community Representative (position 5) - 1 year

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

In the event that the Council Representative Commissioner loses or resigns his position on the Council, his appointment to the Utility Authority 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.

SECTION 3.07. UTILITY AUTHORITY - METHOD OF APPOINTMENT: The Tribal Council shall annually appoint a council person to serve on the Utility Authority. For the Commissioner positions to be filled by tribal community members, the Council shall advertise for fifteen (15) days in the tribal newsletter or by other public notice, 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.

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

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

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

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

**SECTION 3.11 MEETINGS:** The Utility Authority 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 Chairman. Any two Commissioners may request the Chairman, in writing, to schedule a special meeting of the Utility Authority. If the Chairman fails to schedule a meeting within five days after receipt of a written request, any other two Commissioners may call such a meeting.

Meetings shall be held in public places, and the Utility Authority shall provide at least 5 days public notice of special Authority 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, where the continued operation of fiscal capability of the Tribal public utilities may be in jeopardy. All meetings shall be open to members of the tribal community and to users of the Tribal Public Utilities.

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

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

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

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

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

## ARTICLE IV

### MANAGEMENT AND FINANCES

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

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

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

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

SECTION 4.05. DEPOSITORY: The depository of the Department shall be a separate commercial account or accounts in any bank selected by the Utility Authority. Said account shall be in the name "Shoalwater Bay Tribal Utility Authority".

SECTION 4.06 RECORDS AND ACCOUNTS: Suitable financial records shall be maintained for all expenditures, receipts from payments for services, investments and returns on investments, and any other financial matters necessary for operation of the Utility and Environmental Services Department. The separate accounting records for the Department shall be maintained in an appropriate business like manner. The records of accounts shall be made available to the Tribal Council upon request.

SECTION 4.07. EXCLUSIVE USE OF FUNDS: The funds accrued by the Utility Authority and kept on deposit are for the exclusive use of the Utility and Environmental Services Department for the necessary operation, maintenance, and management of the Tribal public utilities and environmental services. Utility Authority funds shall not be transferred or loaned to the Tribal General Fund or any other accounts of the Tribe or other Tribal departments, except to pay for services provided to the Utility Authority or Department by other Tribal Departments.

SECTION 4.08. AUDIT AND REPORTS: The accounts of the Utility Authority will be audited annually at the close of the fiscal year at the expense of the Department. Annual and periodic reports will be submitted by the Utility Authority to the Tribal Council.

SECTION 4.09. BONDING: Officers of the Utility Authority and any other person(s) designated to handle funds for the Utility and Environmental Services Department, shall be bonded for amounts of \$100,000 or more.

SECTION 4.10. INSURANCE: Fire and other insurance on property owned or used by the Department or on property in which the Department has an insurable interest shall be in amounts and type of coverage specified by the Utility Authority. Insurance may be part of the Tribal insurance policies, with the expenses thereof pro-rated to the Department if so directed by the Tribal Council.

SECTION 4.11 PETTY CASH: A petty cash fund is authorized to be established in the amount of \$500.00. 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 may be reimbursed periodically from the official depository of the Utility Authority 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.

SECTION 4.12. REGULATIONS AND POLICY: The Utility Authority and Tribal Council shall have the authority to amend and adopt appropriate regulations and policy as needed to implement the provisions contained in this code. 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 transmitted to the Tribal Council within 48 hours after adoption. Any regulation may be rescinded or approved by the Tribal Council at its discretion.

SECTION 4.13. REGULATION; POLICY SUSPENSION ALTERATION: No regulation duly adopted by the Utility Authority may be suspended or altered by any person without prior written authorization of the Utility Authority.

SECTION 4.14. AMENDMENTS: The Utility Authority shall recommend amendments to this code that it believes necessary to promote the efficient, cost effective and self-sufficient operation of the Utility and Environmental Services Department, and shall present such amendments to the Tribal Council for approval. The Tribal Council may also amend the provisions of this code.

SECTION 4.15. GRIEVANCES: Any customer or any applicant for utility services, who is aggrieved by any action of the Utility and Environmental Service Department or the Utility Authority may file a grievance with the Utility Authority. The Utility Authority shall abide by the regulation set forth in this code and shall handle grievances in a manner which provides for due process of law.

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

SECTION 4.16 NON-WAIVER OF SOVEREIGN IMMUNITY: The Utility and Environmental Services Department is an agency of the Shoalwater Bay 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 Shoalwater Bay 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 Shoalwater Bay Indian Tribe.

## ARTICLE V

### UTILITY AND ENVIRONMENTAL SERVICES - OPERATION

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

**SECTION 5.02. WATER SERVICE:** The Utility Authority is responsible to provide safe, adequate water for a fee to those houses 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 Authority and it is the responsibility of the Department to maintain the meters.

**SECTION 5.03 SEWERAGE SERVICE:** The Utility Authority is responsible to provide sanitary disposal of domestic liquid waste for a fee to those houses connected to the mainlines of community sewerage systems. Further, the Utility Authority may, for a fee, provide maintenance and repair of individual on-site sewage disposal systems. Responsibility for maintenance will include treatment facilities, pumping stations, mainlines and manholes, and service lines to the property lines. For individual on-site sewerage treatment and disposal systems responsibility for maintenance extends from the inlet of the septic tank to and including the subsurface drainfield. The service line from the property line to the house or the septic tank inlet to the house and interior house plumbing are the responsibility of the customer.

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

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

**SECTION 5.06. MAINTENANCE SCHEDULE:** The Utility Authority shall develop and follow a regular schedule of maintenance service for each water and sewerage system and components thereof. A record shall be kept of all routine maintenance and needed repairs performed.

**SECTION 5.07. PERSONNEL:** The Utility Authority shall have the full authority 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 and Environmental Services Department to provide necessary maintenance services through agreements approved by the Tribal Council and the Utility Authority. The specific personnel policies of the Tribe shall be followed. Job descriptions for all employees will be developed and followed.

**SECTION 5.08. PURCHASING:** The Utility system operator may make or approve purchases from the petty cash fund for amounts up to \$500.00. Above this amount, the Utility Authority 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.

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

Utility tools and equipment are not for personal use. Equipment shall not be loaned to other Tribal Departments. A record of tools and the individual to whom they were assigned shall be maintained. Individuals will be held responsible for the security of tools and supplies that are assigned to them.

**SECTION 5.10. INVENTORY:** An accurate inventory of tools, equipment, and supplies will be kept up to date.

A reserve supply of repair parts and regularly used supplies will be maintained by the Department.

A listing shall be kept of local suppliers of repair parts, replacement equipment and expendable supplies.

**SECTION 5.11. PUBLIC RELATIONS:** Any person filing a complaint or seeking information shall be given assistance in a courteous manner. Complaints may be presented verbally or in writing to any Department Staff member for resolution and action. Complaints that cannot be resolved within ten days should be referred to the Utility Authority in writing. The Utility Authority will resolve such complaints at the next regularly scheduled meeting of the Authority. The Chairman may call a special meeting of the Commissioners to resolve complaints as deemed necessary.

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

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

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

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

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

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

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

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

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

**SECTION 5.17. 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 written permission of the Utility Authority. No construction of any private water or sewer system, or other private utility is authorized without written permission from the utility Authority. The Utility Authority may require such plans from the permit applicant as it determines are necessary to decide whether or not a permit should be issued. The Utility Authority may also require and establish a fee for construction permits.

**SECTION 5.18. WATER SHORTAGE - SERVICE PREFERENCE:** In cases of a water shortage proclaimed by the Utility Authority, the Department shall regulate the amount of water any customer may be allocated. The Utility Authority also may give preference to the customers and/or amounts of water to be allocated, provided the Utility Authority allocates water according to public necessity of convenience, and provides for fair allocations between customers. Any customer violating a legal allocation may have his water service discontinued. Service shall be resumed only upon payment of the approved reconnection fee and any penalties.

**SECTION 5.19. UNNECESSARY WASTE OF WATER:** The Utility Authority reserves the right to terminate customer's service when the customer has repeatedly, and unduly wasted water. Such undue waste is evidenced by the fact that hydrants, taps, hoses and other fixtures are permitted to run continuously without specific prior approval of the Authority. Where such conditions have been observed, the Utility Authority having been notified of the condition, may terminate water to the premise if the condition is not corrected within 48 hours after receipt of the notice. Service shall be resumed only after correction of the condition causing a wastage of water and payment by the customer of the approved reconnection fee, penalties and any other accounts in arrears to the Utility Authority.

**SECTION 5.20. CONSERVATION OF RESOURCES:** The Department shall conduct operation, maintenance and repair services in a manner that will maximize the conservation of natural, financial, and property resources. Customers of the Department shall be encouraged to conserve water resources. The Department 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 Authority.

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

1. Facilities as determined by the Utilities and Environmental Services Department, with assistance from the Indian Health Service, are adequate to meet the additional load.
2. New customer agrees to adhere to this Code.
3. Approval by the Utility Authority and the Tribal Council.



## ARTICLE VI

### CUSTOMER OBLIGATIONS

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

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

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

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

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

SECTION 6.06. PERMITS: The customer shall obtain written permission from the Utility Authority prior to making any connection, re-connection, with, disconnection from, or other private use of any Department water or sewer system, road, appurtenance, or other utility service or facility. The customer shall obtain written permission from the utility Authority prior to constructing any private water sewer system, or other private utility. All fees assessed by the Utility Authority shall be paid by the customer prior to construction.

SECTION 6.07. 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.

SECTION 6.08. SOLID WASTE FACILITIES: The customer shall provide his own refuse containers and shall maintain the cans and holding facility in a manner that prevents the harborage of rodents and vermin. There shall be no excessive accumulation of refuse, garbage or solid waste in the community or around individual homesites. The refuse containers shall be placed at a location accessible by the refuse collection personnel.

**SECTION 6.09. USE OF SEWERAGE SYSTEM:** The customer shall use the sewerage collection, treatment and disposal system only for the disposal of normal liquid waste including waste from toilet facilities, shower and bathing facilities and kitchen facilities.

**SECTION 6.10. UNAUTHORIZED DISPOSAL:** The customer shall not dispose of any material into the sanitary sewer which may cause the collection lines or subsurface drainfield to become blocked or excessively loaded with solids, including but not limited to garbage, disposable diapers, sanitary napkins, paper material other than toilet paper, cigarette waste, cat litter, etc.

**SECTION 6.11. TOXIC WASTE DISPOSAL:** No customer shall dispose of any toxic, radioactive, or otherwise hazardous waste into any Utility Department or private sanitary or storm sewerage system or solid waste disposal facility. All hazardous wastes must be disposed of off the Shoalwater Bay Indian Reservation at a sanitary landfill approved for the disposal of toxic wastes. Toxic and hazardous waste include but are not limited to: oil, pesticides, gasoline, organic solvents, paint, poisons and other manufactured chemical compounds.

## ARTICLE VII

### FEE SCHEDULES AND BILLING

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE VIII

### ENFORCEMENT; PENALTIES; SANCTIONS

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

**SECTION 8.02. ATTACHMENT OF CUSTOMERS PROPERTY:** The Utility Authority shall not seek to attach customer's property, nor seek to have fines assessed by Tribal Court, except in limited cases of blatant or continued abuses or destruction of property.

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

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

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

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

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

## ARTICLE IX

### MISCELLANEOUS PROVISIONS

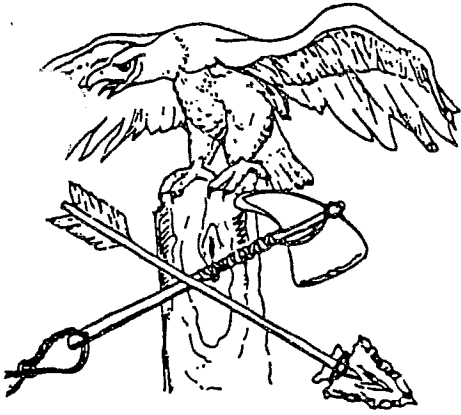
SECTION 9.01. VALIDITY, SEVERABILITY: The invalidity of any section, clause, sentence or provision of this code shall not affect the validity of any part of this ordinance which can be given effect without such invalid part or parts.

SECTION 9.02 AMENDMENTS: The Shoalwater Bay Tribal Council has the power to amend this code at any time. The Tribal Council shall act upon proposed amendments to this code, submitted for action by the Utility Authority, by approval or disapproval of such proposed amendments.

SECTION 9.03. SUSPENSION OF CODE: No employee, officer, contractor or agent of the Shoalwater Bay Indian Tribe is authorized to suspend or alter any of the provisions of this code without the formal approval of the Shoalwater Bay Tribal Council.

## APPENDIX I: USER FEE SCHEDULE

A flat user fee of \$15.00 per month will become effective immediately upon passage of the utility code by the Tribal Council. Each of the 31 connections will be responsible for this amount, pursuant to the provisions of this code. This fee may be changed at any time by the Utility Authority or Tribal Council to insure the equitable distribution of water.



# SHOALWATER BAY INDIAN TRIBE

P.O. Box 130 • Tokeland, Washington 98590  
Telephone (206) 267-6766 • FAX (206) 267-6778

## SHOALWATER BAY INDIAN TRIBE RESOLUTION #10-21-93-75

WHEREAS, The Shoalwater Bay Indian Tribe is a Federally Recognized Tribe headquartered on the Shoalwater Bay Indian Reservation in the State of Washington; and

WHEREAS, The Shoalwater Bay Tribal Council is the governing body of the Shoalwater Bay Indian Tribe in accordance with their Constitution and By-Laws; and

WHEREAS, The Shoalwater Bay Tribal Council recognizes the need for a comprehensive Tribal Utilities and Environmental Services Code and the regulatory framework for its implementation; and

WHEREAS, The Shoalwater Bay Indian Tribe had a PUBLIC HEARING regarding the TITLE 22: TRIBAL UTILITIES AUTHORITY CODE (Rules & Regulations and By-laws Governing Operation & Maintenance of the Shoalwater bay Tribal Community Environmental Services) on October 20, 1993; now

THEREFORE BE IT RESOLVED, That the Rules & Regulations and General By-laws Governing Operation and Maintenance of the Shoalwater Bay Tribal Community Environmental Services Title 22: Tribal Utilities Authority Code is hereby enacted and adopted.

### C E R T I F I C A T I O N

The above Resolution was enacted at a Regular Meeting of the Tribal Council at which a quorum was present on the 21st day of October 1993 at the Shoalwater Bay Tribal Center by a vote of 3 FOR 0 AGAINST AND 0 ABSTENTIONS.

James M. Anderson Vice Chairman  
Herbert Mark Whitish, Chairman  
Shoalwater Bay Tribal Council

Attest:

Lynn Clark  
Lynn Clark, Council Secretary  
Shoalwater Bay Indian Nation