

TITLE 17. UTILITIES

Chapter 17.1

WATER UTILITY

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GENERAL PROVISIONS

17.1.1. Title. This chapter shall be known as the “Suquamish Water Utility Ordinance.” (Passed Feb. 3, 2003; amended and chapter renumbered by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.2. Purpose. The purpose of this chapter is to set forth the rules and regulations for the operation, maintenance, ownership, and management of the tribal water system that provides water to customers within the service area. It is the intent that the operation, maintenance, and management of the Tribe’s water system be carried out by the Tribe’s water utility so as to provide safe, reliable, and efficient water service to customers in a financially responsible and cost-effective manner. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.3. Authority. The Tribe’s authority to establish a water utility and provide water utility services including adopting, levying, and assessing reasonable user rates, charges, fees, and assessments for all users of the water supply services, and to regulate water supply services and manage the water system on the reservation, is derived from the Tribe’s exercise of inherent sovereign power and its governmental status as a federally recognized Indian tribe, as provided in Article III (b), (f), (i), and (j) of the Suquamish Tribe’s Constitution and Bylaws. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.4. Service Areas of the Water Utility. The service areas of the water utility consist of those areas approved by the Tribal Council as delineated on maps maintained by the water utility. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.5. Definitions. Unless the context clearly indicates otherwise, the meaning of terms and phrases used in this chapter shall be those meanings set forth below. When a term is not defined in this chapter, it shall be given its usual and ordinary meaning; the lack of capitalization is not meaningful.

(a) “Customer” means the legal owner, allottee, lessee, or tenant of property, who has the right to possession of the premises and who may have signed a standard participation contract with the water utility for water service.

(b) “Engineer” means the person(s) or firm(s) or his, her, or its authorized assistant(s), representative(s), or employee(s) designated and/or employed from time to time by the Tribal Council or water utility manager to perform engineering service for the water utility.

(c) “Person” means any individual, firm, company, corporation, association, society, or group.

(d) “Property” or “premises” means a lot, tract, or parcel of land and any structure(s) thereon.

(e) “Prudent utility practice” means performing water-utility-related responsibilities consistent with the direction of the Tribal Council, this chapter, and the standards that are accepted in the industry as good practice, including the standards for construction, installation, testing, maintenance, and management of all of the water system, so to ensure that the water system is appropriately constructed, maintained, and managed and so that the health, safety, and welfare of the water utility’s customers are protected.

(f) “Service areas” means those areas approved by the Tribal Council and delineated on maps maintained by the water utility.

(g) “Standard participation contract” or “contract” means the contract required by this chapter to be entered into by the customer and the water utility manager before any person may connect to or use the water utility’s water supply services.

(h) “Structure” means anything constructed, erected, placed, located on, or attached to the ground, including but not limited to a building, fence, wall, trailer, and manufactured housing unit.

(i) “Suquamish Tribe” or “Tribe” means the governmental entity known as the Suquamish Tribe, a federally recognized Indian tribe.

(j) “Suquamish Tribal Code” or “STC” means the Suquamish Tribal Code as adopted by the Suquamish Tribal Council pursuant to the authority granted in the Tribe’s Constitution and Bylaws.

(k) “User” means an adult person who resides at the premises being served by the water utility, who is a primary user of water utility service, but who may not have signed the standard participation contract.

(l) “Water system” means the Tribe’s water utility facilities and property including but not limited to easements, equipment, pipes, mains, meters, and associated appurtenances used to provide water service.

(m) “Water utility manager” or “manager” means the manager of the Suquamish tribal water utility.

(n) “Water utility” or “utility” means the Suquamish tribal water utility that provides for water services to its customers, and the Tribe’s personnel responsible for the operation, maintenance, management, and oversight of the water system. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

SUQUAMISH TRIBAL WATER SUPPLY SERVICES

17.1.6. Establishment of Suquamish Water Utility. There is hereby established the Suquamish tribal water utility encompassing the water system that provides water services to customers within the service area. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.7. Water Utility — Operating Organization. The water utility shall operate as a subordinate unit of the Suquamish Tribe’s Natural Resources Department (NRD). The water utility shall be managed on a day-to-day basis by the water utility manager who is supervised by the natural resources director as set forth in this chapter, consistent with the regulations and ordinances as may be adopted by the Tribal Council. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.8. Water Utility Manager — Responsibilities. The water utility manager is the administrator of the water utility and is responsible for ensuring that the day-to-day operations, maintenance, and management of the water utility and of the water system are properly performed consistent with prudent utility practice and in accordance with the requirements of this chapter. In addition, the water utility manager shall:

(a) Prepare an annual report and operations plan for review by the Tribal Council in accordance with §17.1.10;

(b) Prepare an annual budget for review and approval by the Tribal Council in accordance with §17.1.9;

(c) Establish policies, procedures, and rules for the implementation of this chapter that may be periodically reviewed by the Tribal Council;

(d) Review and if appropriate recommend amendments for rates, charges, fees, and any proposed assessments for water supply services for adoption by the Tribal Council;

(e) Execute and implement standard participation contracts consistent with this chapter;

(f) Initiate improvement projects in accordance with the annual operations plan;

(g) Implement additional related services and perform additional related tasks upon the direction and/or approval of the natural resources director or Tribal Council; and

(h) Develop and periodically update a written schedule for regular maintenance and replacement of the major facilities of the water system. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

MANAGEMENT AND FINANCES

17.1.9. Annual Budget. Prior to the commencement of every calendar year and consistent with the requirements of the finance department, the water utility manager shall submit and recommend for approval by the Tribal Council an annual water utility budget that sets forth the estimated revenue, including grant funds, and necessary expenses, including expenses for capital projects, construction, maintenance, operation, training, debt service, a reserve for major repairs and replacements, and allocation of a reasonable share of costs for use of tribal property, resources, administration, insurance, and other facilities. The water utility budget shall be a stand-alone budget; however, it may be part of the NRD budget. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.10. Annual Report and Operations Plan. Before the end of February of every year, the manager shall prepare and submit an annual report and operations plan to the executive director and the Tribal Council. The annual report and operations plan shall briefly summarize:

(a) The water utility's activities and accomplishments for the prior year;

(b) The water utility's financial condition;

(c) The status of projects;

(d) Any major maintenance projects and/or any capital projects planned for the upcoming year;

(e) Any proposed major operational improvements for the upcoming year, including staff changes, training, and certifications; and

(f) Any other information requested by the Tribal Council or which the water utility manager deems pertinent. (Res. 04-099 (part), passed Aug. 30, 2004)

17.1.11. Customer Rates, Charges, and Fees Schedule. The rates, charges, fees, and/or assessments for all water utility services as approved by the Tribal Council shall be applicable to and charged to all customers of the water utility. So long as a customer is connected to the Tribe's water system, the basic monthly service rate shall be charged to the customer, plus the charge for the customer's water consumption amount. In the event of a proposed long-term vacancy or absence, the water utility manager may approve deactivation of a customer's account so that no monthly charges will be imposed. However, the customer will be subject to a reactivation charge when resumption of water service is desired. If the deactivation exceeds twelve (12) months, then an additional reconnection charge shall be paid by the customer. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.12. Separate Account. The water utility's funds shall be maintained and administered by the Tribe's finance department as a separate account within the NRD. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.13. Records and Accounts. The finance department shall maintain financial records for all expenditures, receipts from payments for services, investments and returns on investments, and any other financial matters necessary for operation of the water utility. All accounting records for the water utility shall be maintained in accordance with generally accepted accounting standards satisfactory to the Tribal Council. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.14. Use of Funds. The funds accrued by the water utility that are maintained by the finance department shall be for the exclusive use of the water utility for the necessary operation, maintenance, capital improvement projects, and management of the water system, except to pay for the utility's reasonable share for the services provided to the utility by other tribal departments. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.15. Audits. The accounts of the water utility will be audited annually as part of the tribal government audit at the close of the fiscal year. (Passed Feb. 3, 2003)

STANDARD PARTICIPATION CONTRACT

17.1.16. Standard Participation Contract — Eligibility. After completion of an application for water service and signing the standard participation contract by the legal owner, lessee, or tenant who provides written evidence of right of occupancy of the premises and approval by the water utility manager, the applicant is then eligible to receive water services from the water utility. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.17. Standard Participation Contract — Terms. The standard participation contract shall provide, at a minimum, the following:

(a) That the customer warrants and prior to obtaining water service shall provide written documentation showing that he or she is the owner, tenant, or lessee of the subject property and has the present legal authority to occupy the property;

(b) That the customer, by signing the contract, is subjecting his or her property to the terms and conditions of the contract and will pay the applicable rates, fees, charges, and/or assessments as adopted by the Tribal Council and will use the water supply services in accordance with the rules and regulations applicable to the water utility services as such rates, fees, charges, assessments, rules, and regulations may be amended from time to time;

(c) That the present building(s), structure(s), and water uses described in the contract shall be the only uses of the water provided by the water utility pursuant to the contract;

(d) That the property subject to the contract shall be subject to a lien for all unpaid bills for water utility services, including penalties and interest, to the same extent as any other property served by the water system;

(e) That water services to a customer's property may be terminated if the customer is delinquent in making timely payments for water services or assessments as billed by the water utility or if the water utility's service connection, water meter, or other water system facility has been tampered with or damaged by the customer. The termination of water services will continue until satisfactory arrangements are made to pay the unpaid amount due to the water utility and/or to reimburse the water utility for the damages to the water system, as further provided in this chapter; and

(f) Any other conditions or provisions required by the Tribal Council or water utility manager to be included in the standard participation contract. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

WATER SUPPLY SERVICE, CHARGES, AND FEES

17.1.18. Application for Water Service. After a new applicant for water service has completed and signed the water service application and standard participation contract, has paid all applicable charges and fees, and has been approved for service by the water utility manager, the person will be allowed to connect his or her service (pipe-) line to the water meter, pursuant to the standards and requirements of the water utility and to receive water service from the water utility. The water service application shall at a minimum require:

(a) Identification of the water services requested, listing all uses for those services, and identifying structures to be served; and

(b) The property owner's written and witnessed signed consent including authorization for the tenant or lessee to enter into the contract if the applicant is not the owner of the premises. (Res. 04-099 (part), passed Aug. 30, 2004)

17.1.19. Service to Existing Customers and Payment of Outstanding Obligations. The water utility shall provide reasonable notification in writing to an owner or occupier of property who is currently receiving water service from the Tribe's water system, which notice shall advise of the new requirement to enter into the standard participation contract and to pay any outstanding balance that may be due to the Tribe for water service which commenced for some areas in December, 1979. If after thirty (30) calendar days of receiving said notice, the owner, occupier, or user has not entered into and delivered the signed contract to the water utility and paid the outstanding balance due for water utility services, the user shall be deemed to be in violation of this chapter and continued water service to such user and property shall be terminated. In cases of hardship, the finance director in consultation with the water utility manager may authorize the payment of the outstanding balance to be made over a reasonable period of time.

Notice of the obligation for payment for water service has been previously provided to all persons who received water service; therefore, no person or user is excused from this obligation even though it is acknowledged that for some months a bill may not have been sent to a user. A person who qualified as a tribal elder on July 12, 2004, is obligated to pay only one-half (1/2) of any past due obligation that was outstanding on or before July 12, 2004. In addition, customers within the Eglemere housing development are exempt from the requirement to pay the outstanding balance.

If the finance department records show that a tribal member owes an unpaid balance to the Tribe for water utility service and said person has not paid the amount owed, made mutually agreeable arrangements with the finance department to pay the outstanding balance over a reasonable period of time, or satisfied the payment arrangements previously made with the finance department, said tribal member shall not be issued a permit, identification card, or license that is necessary to fish, harvest shellfish, hunt, or sell fireworks pursuant to the Suquamish Tribal Code. Tribal departments that issue said permits, identification cards, or licenses shall be notified by the finance department of tribal members who should not be issued permits, identification cards, or licenses and said departments are required to follow this requirement. (Res. 04-099 (part), passed Aug. 30, 2004)

17.1.20. Bulk Water Purchases.

(a) All bulk water supplied by the water utility shall be either metered or estimated by the water utility.

(b) A service charge in the amount specified by the current fee schedule will be charged for bulk water purchases, in addition to the volumetric charge.

(c) Bulk water sales include water supplied for purposes other than extinguishing fires, such as for irrigation, for filling swimming pools, or for any other use not made through a regular service connection. (Res. 04-099 (part), passed Aug. 30, 2004)

17.1.21. Rejection of Application. If it appears that the service will not be adequate for the uses listed on the application, the water utility may reject the application. The utility may also reject the application if the person has an outstanding unpaid balance owed to the Tribe for previous tribal water utility services or for housing or other tribal services. (Res. 04-099 (part), passed Aug. 30, 2004)

17.1.22. Adjustment of Rates, Charges, and Fees. At least once every two (2) years, the manager shall submit recommendations to the Tribal Council for adjusting the water utility's rates, charges, fees, and/or assessments, and the Tribal Council may thereafter, by resolution or ordinance, adopt, re-adopt, or amend the water rates, charges, fees, and/or assessments for all of the water services provided by the utility including permit(s), new connection, account activation, reconnection, enforcement, latecomer, and any other fees deemed appropriate.

It is the goal of the water utility that its rates, charges, fees, and assessments for water services reflect the actual cost of service for providing water utility services. The proposed revised rates, charges, fees, and/or assessments schedule shall be posted for at least a fourteen (14) day period at the Tribe's usual posting locations or as directed by the Tribal Council before the Tribal Council is asked to consider adjustments or revisions. (Res. 04-099 (part), passed Aug. 30, 2004)

17.1.23. Billings and Delinquent Charges. Water utility rates, charges, fees, and assessments for water services shall be billed on a monthly basis to each customer by the Tribe's finance department.

(a) A late charge of one percent (1%) per month with a minimum of two dollars (\$2) shall be added to those bills that are not paid on or before the twentieth (20th) day after the due date stated on the bill.

(b) The lack of having received a bill for water utility services does not excuse the obligation to pay for water utility services pursuant to the rates, charges, fees, and assessments as adopted by the Tribal Council.

The finance director may make an agreement with a customer for paying an outstanding water utility bill over a period of time, which agreement is subject to the approval of the water utility manager. Additional minor policies and procedures for water utility billings and delinquency charges may be established by the finance director after consultation with the water utility manager. (Res. 04-099 (part), passed Aug. 30, 2004)

17.1.24. Nature of Obligation and Remedies.

(a) The rates, charges, fees, and assessments for water utility services are deemed to be the obligation of the customer and the adult user(s) who may reside at the premises and who benefited from the water utility services provided to the premises. If water service has been terminated by the utility for nonpayment of utility services or for other reasons authorized by this chapter, the termination of water service shall continue until the outstanding delinquent amount has been paid, notwithstanding that the premises (if privately owned) is sold, transferred, or foreclosed upon. However, with the approval of the Tribal Council, the finance director may waive termination in situations where the customer has shown evidence of extreme financial hardship.

(b) The rates, charges, fees, and assessments of the water utility may be collected in a civil proceeding against any or all customers and/or users of the water services provided. In addition, if collection of the outstanding amount cannot be obtained from the person(s) liable and the property served is privately owned, said property may be foreclosed upon and sold to collect the amount owed.

(c) There is a presumption in favor of the Tribe that the customer who applied for service and signed the contract and/or adult user(s) who did not sign the contract but benefited from the water service are liable for the amount owed for water service provided by the water utility. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

PROTECTION FROM DAMAGE

17.1.25. Entry on Property and Protection of Water Quality. The ability to receive tribal water utility service is a privilege and in order to protect the health, safety, and welfare of all of its customers, the water utility staff and representatives shall have the right to reasonable access onto any customer or tribal member's premises for the purposes of inspection, testing, observation, measurement, and sampling. Any customer or person who obstructs or prevents a water utility employee or representative who has presented proper water utility identification from entering or remaining upon property for a lawful purpose under this chapter shall be liable to the utility for all damages, costs, and expenses including attorneys' fees incurred by the water utility and the Tribe as a result of the obstruction.

Water utility customers, tribal members, and other persons shall not cause contamination, pollution, or damages to the water utility's source of water supply or its facilities. Therefore, no person, customer, or tribal member shall place, store, leave, or locate solid or liquid waste, junk, trash, or garbage within one hundred (100) feet of any of the water utility's wellheads or wellhead housing structures. The determination of whether something is in violation of this provision is up to the sole discretion of the water utility manager. This prohibition shall be strictly enforced by the water utility's staff and public safety officers. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.26. Meters. All meters for the measurement of water provided shall be installed by the water utility in accordance with the requirements of the utility at such locations as

the manager may direct. All water meters shall be the property of and be maintained by the utility. The customer shall ensure that his or her meter is, at all times, easily accessible to utility personnel. No person shall damage or tamper with any meter. Any damage to or tampering with a meter shall be a violation of this chapter and subject the violator to actual damages and penalties as further set forth in this chapter. The customer whose name is on the contract for the property shall be presumed responsible for all damage to or tampering with the meter that serves his or her owned, leased, or rented property.

The water meter is presumed to accurately record the customer's water usage. If a customer has a concern that the water meter is measuring water flow at a higher than accurate rate, the customer may request the water utility to test the meter for accuracy. If the test determines that the meter is more than three percent (3%) inaccurate and it appears that the inaccuracy is the cause of the high meter readings, then the cost of the meter test shall be borne by the water utility. However, if the meter is within three percent (3%) of being accurate or is measuring lower than an accurate quantity, then the cost of the meter test is the obligation of the customer. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.27. Unauthorized Water Service.

(a) Obtaining Service without Authorization. Any person who obtains water utility service by connecting to the water system without authorization or by bypassing or tampering with a meter is liable to the water utility for three (3) times the estimated value of the actual water used and for any other service obtained, plus the cost of correction and all costs of the utility in investigating and resolving the matter, including reasonable attorney fees.

(b) Providing Unauthorized Water Service.

(1) It is a violation of this chapter for any customer or user to provide unauthorized water service to any structure or any other person. Water service provided by the utility for one customer or premises shall not be extended to other property or structures by any means such as a hose, pipe, tubing, or other means.

(2) Whenever a water utility employee or tribal public safety officer observes unauthorized water service being provided:

(A) The hose, pipe, tubing, or other connection providing unauthorized water service shall immediately be disconnected;

(B) A notice shall be posted on the premises stating that a violation of this chapter has been observed and that the unauthorized connection has been disconnected; and

(C) The water service to the property which had provided the unauthorized water service shall be immediately terminated, and the utility shall mail the customer notice of the termination of service, the reason(s) for the termination, and the process to obtain resumption of water service.

(3) Water service terminated pursuant to this section shall be resumed only after payment in full of:

(A) The actual cost to the water utility for suspension and resumption of service;

(B) The reconnection fee; and

(C) An additional enforcement fee. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

TERMINATION OF WATER SERVICE

17.1.28. Grounds for Termination of Water Service. The water utility shall terminate water supply service to a customer under any of the circumstances below.

(a) The customer or user is two or more billing periods delinquent in payment of water service rates, charges, fees, and/or assessments.

(b) The water utility is provided an affidavit or declaration stating that disconnection of water service is requested because the user has no legal right to occupy the property and the property owner has agreed in writing to defend, indemnify, and hold harmless the Tribe for such disconnection.

(c) Any significant violation of this chapter or the written rules, standards, or policies established and approved by the manager or the Tribal Council.

(d) Compelling health and/or safety reasons.

However, in the case of serious hardship, the finance director in consultation with the water utility manager may continue to provide water service to the customer for a period not to exceed thirty (30) days to allow the customer to obtain financial assistance to pay for the delinquent bills. If financial assistance cannot be obtained and a serious financial hardship is documented by the customer, the finance department is authorized to develop a schedule with the customer whereby payment of the outstanding balance may be made over a reasonable period of time. Waiver of termination may only be allowed in cases where extreme financial hardship is documented and upon the approval of the Tribal Council. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.29. Procedures for Termination of Water Service. Except as specifically provided herein, the exclusive procedure for terminating water service to a customer or person arising from reasons set forth in §17.1.28 above is as follows:

(a) At least ten (10) calendar days prior to termination of water service, the water utility shall notify the customer by notice mailed to the customer's billing address and either:

(1) Hand delivered to a person who is at least eighteen (18) years old and who resides or is physically present at the customer's premises; or

(2) Hung on the front door knob or placed on the front of a main building on the customer's property.

The notice shall include the name of the customer, reason for termination of water service, date that service will terminate in the event that the violation is not cured, and that a due process hearing may be requested in the event that the customer believes that the proposed termination is in error.

(b) If the basis for termination of water service is nonpayment of the water rates, charges, fees, and/or assessments, as set forth in §17.1.28(a), the notice shall also:

(1) Set forth the date and time by which and the place at which payment must be made in order to prevent termination of service, which date shall not be less than nine (9) calendar days from the date of the notice being mailed, delivered, or posted; and

(2) Include an itemized bill that shows the full amount that must be paid in order to prevent termination of water service, including any interest, fees, costs, and penalties authorized by this chapter.

(c) The filing of an appeal authorized by this chapter shall not stay the water utility's decision to terminate water service to a customer. However, if the customer pays under protest the amount billed by the water utility and immediately proceeds with an appeal as allowed herein, the customer will continue to receive water service. The amount paid under protest shall be refunded to customer if the customer is successful on the appeal.

(d) Notwithstanding anything to the contrary herein, when a person or customer has provided or obtained unauthorized water service as set forth in §17.1.27, water service may be immediately terminated as set forth herein, and there is no right to a hearing. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.30. Reconnecting after Termination of Water Service.

(a) Water service terminated pursuant to §17.1.27, §17.1.28, or §17.1.29 may be resumed when the grounds for termination no longer exist as determined by the water utility manager.

(b) A reconnection fee must be paid prior to the resumption of water service. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

VOLATIONS, PENALTIES, AND APPEALS

17.1.31. Liability to Water Utility. Any person who violates this chapter or the standards adopted by the manager shall be liable to the water utility for all expenses, loss, damages, costs of inspection, and costs of correction incurred by the utility by reason of such violation, including any expenses and attorney fees incurred by the utility in collecting from such person for such loss, expenses, costs of inspection, or costs of correction. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.32. Notice of Violation. Any customer or person determined by the water utility to be in violation of this chapter or the related regulations or written policies established by the manager shall be provided with written notice of the violation by leaving such notice by the customer's or person's front door or mail box, or by giving the notice to a person over the age of eighteen (18) who is on the customer's premises, or by certified mail. A notice of violation shall state the nature of the violation and provide a reasonable time limit for the satisfactory correction thereof. The customer or person in violation of this chapter shall, within the period of time stated in such notice, permanently cease all violations and make all necessary corrections. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.33. Costs of Correction. The manager shall order the correction of any significant violation of this chapter or any significant violation of standards or requirements of the utility. The determination whether a violation is significant is the sole and exclusive determination of the manager. The utility shall submit a bill to the customer for the utility's cost of correction for the violation(s) of this chapter or the utility's standards or requirements. The utility shall also impose a charge of the lesser of one hundred dollars (\$100) or ten percent (10%) of the actual costs of correction to the customer or person responsible for the violation and/or whose property is provided water service by the utility. If the cost of correction and additional charge are not paid to the finance department within thirty (30) days of the utility's mailing notice to pay, then the tribal attorney shall commence a civil proceeding in the Tribal Court to collect said amount owed and shall be awarded reasonable attorney fees and costs by the Court. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.34. Appeals and Stay. Except as specifically provided to the contrary, the termination of water service and any order of the manager may be appealed by filing a written appeal with the tribal office of the NRD director on or before ten (10) calendar days after the termination of water service or if an order is being disputed, within ten

(10) calendar days of the mailing or service date as documented in the tribal staff file. The appeal shall set forth in detail the reasons for the appeal. The NRD director may hear the appeal or refer the appeal to another tribal staff person who shall hear the appeal of the customer or person charged with being in violation of this chapter. The amount billed by the finance department and/or order of the water utility manager shall be presumed to be proper, correct, and consistent with this chapter and/or the relevant written standards. The tribal staff decision shall be in writing, shall set forth findings of fact and conclusions, and shall be issued and mailed to the appellant within ten (10) calendar days of the hearing. Termination of water service may be stayed during the appeal period by paying the amount due, including any penalty, under protest. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.35. Tribal Council Review. If the water utility matter in dispute is five hundred dollars (\$500) or more, the person affected may petition the Tribal Council for an informal hearing on the disputed matter. The Tribal Council may, but is not obligated to, hold an informal hearing on said matter in dispute. The procedure and standards for review before the Tribal Council are as may be promulgated by the Tribal Council chairman. If the Tribal Council elects not to hold an informal hearing or if the Tribal Council finds against the petitioner, the petitioner, if eligible, may petition the Tribal Court for review. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.36. Judicial Review. If the water utility matter in dispute is five hundred dollars (\$500) or more, such as an amount billed, correction cost, or total cost including penalty, the person affected may petition the Suquamish Tribal Court for judicial review of the decision. The petition for review shall be filed with the Tribal Court within ten (10) calendar days of the date the petitioner received the tribal staff person's decision, which shall be presumed to have been received by petitioner within three (3) days of mailing. The Tribal Court shall give deference to the tribal staff decision and may allow additional testimony and argument. The Tribal Court shall issue a written decision which shall be final and not subject to further review. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

MISCELLANEOUS

17.1.37. Notices and Billings. For the purposes of this chapter, any person who has the care, custody, control, or management of any premises or building or who has control of the operation or the collection of rentals thereof shall be deemed to be the agent of the owner of such premises or building, and all notices herein provided to that agent shall be deemed to be notice to the owner. The mailing or delivery of bills for water utility service rates, charges, fees, or assessments provided to that agent shall be deemed mailing or delivery to the customer. (Passed Feb. 3, 2003; amended by Res. 04-099 (part), passed Aug. 30, 2004)

17.1.38. No Waiver of Sovereign Immunity. Nothing in this chapter or in the standard participation contract shall be interpreted to be a waiver of the Suquamish Tribe's

sovereign immunity. Only if a water utility staff person is determined by the Tribal Court to have been grossly negligent in the management or maintenance of the water system or water utility shall any monetary liability be imposed by the Tribal Court against said person. The amount of monetary damages imposed against a tribal staff person who is determined to be grossly negligent shall not exceed the verifiable and documented actual cost or expenses incurred by the person claiming to have been damaged. (Res. 04-099 (part), passed Aug. 30, 2004)

17.1.39. Validity and Severability. The invalidity of any section, clause, sentence, or provision of this chapter shall not affect the validity of any other part of this chapter, which can be given effect without such invalid part or parts. (Passed Feb. 3, 2003)

17.1.40. Effective Date. This ordinance amends and replaces the existing water utility ordinance, codified at STC Chapter 17.1, and shall become effective on September 1, 2004. (Res. 04-099 (part), passed Aug. 30, 2004)