

TITLE 19

UTILITY CODE

Chapter 19.01 General Provisions

19.01.01	Title and Date	1
19.01.02	Purpose.....	1
19.01.03	Policy	1
19.01.04	Jurisdiction.....	2

Chapter 19.02 Definitions of Terms

19.02.01	General	2
19.02.02	Appurtenances	2
19.02.03	Collection System Lines.....	2
19.02.04	Contractor	2
19.02.05	Customer	3
19.02.06	Customer Lines	3
19.02.07	Distribution System Lines	3
19.02.08	Intermediate Lines	3
19.02.09	Manager	3
19.02.10	Meter.....	3
19.02.11	Off-Reservation	4
19.02.12	On-Site Sewage Treatment and Disposal Systems	4
19.02.13	Operator	4
19.02.14	Regulation.....	4
19.02.15	Residents	4
19.02.16	Septic System Cleaner	5
19.02.17	Shall, May	5
19.02.18	Tribal Utilities and Environmental Services	5
19.02.19	Utility Board	5
19.02.20	Utility Department	5
19.02.21	Vendor.....	5

Chapter 19.03 Utility Department and Utility Board

19.03.01	Establishment of Utility Services Department	6
19.03.02	Utility Board	6
19.03.03	Utility Authority Operating Organization.....	6
19.03.04	Utility Authority Powers and Responsibilities	6
19.03.05	Utility Authority Membership.....	7
19.03.06	Term of Office.....	7
19.03.07	Utility Authority Vacancies.....	7
19.03.08	Officers	8
19.03.09	Duties of Officers	8
19.03.10	Meetings.....	8
19.03.11	Quorum and Voting	9
19.03.12	Meeting Agenda.....	9

19.03.13	Compensation	10
19.03.14	Public Hearings.....	10

Chapter 19.04 Management and Finances

19.04.01	Management Personnel	10
19.04.02	Annual Budget	11
19.04.03	User Fee Schedule.....	11
19.04.04	Contingency Fund - REPEALED.....	11
19.04.05	Depository	11
19.04.06	Records and Accounts.....	11
19.04.07	Exclusive Use of Funds.....	12
19.04.08	Insurance.....	12
19.04.09	Regulations and Policy	12
19.04.10	Regulation, Policy Suspension Alteration.....	12
19.04.11	Amendments	12
19.04.12	Grievances	13
19.04.13	Non-Waiver of Sovereign Immunity	13

Chapter 19.05 Utility Services - Operation

19.05.01	Services Provided	13
19.05.02	Water Service.....	14
19.05.03	Meters	14
19.05.04	Public Water Use Requirements.....	14
19.05.05	Obtaining Service Without Authorization.....	15
19.05.06	Sewerage Service	15
19.05.07	Garbage and Recycling Services.....	15
19.05.08	Internet Service	16
19.05.09	Future Services	16
19.05.10	Maintenance Schedule	17
19.05.11	Personnel.....	17
19.05.12	Equipment	17
19.05.13	Inventory.....	17
19.05.14	Public Relations.....	18
19.05.15	Emergency Notification.....	18
19.05.16	Staff Training.....	18
19.05.17	Limits of Responsibility	19
19.05.18	Right of Entry - Inspections.....	19
19.05.19	Disruption of Service.....	19
19.05.20	Construction Permission	20
19.05.21	Water Shortage - Service Preference	20
19.05.22	Unnecessary Waste of Water	20
19.05.23	Conservation of Resources	21
19.05.24	New Customer Services.....	21

Chapter 19.06 Customer Obligations

19.06.01	Conditions For Service.....	22
----------	-----------------------------	----

19.06.02	Bill Payment Responsibility	22
19.06.03	Maintenance, Repairs, Liability	23
19.06.04	Customer Termination of Service, Abandonment	24
19.06.05	Water Shortages	24
19.06.06	Inspections	24
19.06.07	Written Authorization.....	25
19.06.08	Cross-Connections	25
19.06.09	Use of Sewer System	25
19.06.10	Unauthorized Disposal	25
19.06.11	Toxic Waste Disposal	26
19.06.12	Customer Damage to Lines or Facilities.....	26

Chapter 19.07 Fee Schedules and Billing

19.07.01	Fee Schedule Establishment	26
19.07.02	Charge for Connection, Fees and Charges.....	26
19.07.03	Public Notice	27
19.07.04	Notice to Customers.....	27
19.07.05	Billing Responsibility	27
19.07.06	Monthly Statement	28
19.07.07	Due Date	28
19.07.08.	Payments Past Due	28
19.07.09	Delinquent Account	28
19.07.10	Delinquency Notice and Fees	29

Chapter 19.08 Enforcement, Penalties, Sanctions

19.08.01	Authority and Enforcement	29
19.08.02	Assessment of Court Fines	29
19.08.03	Penalty Schedule.....	30
19.08.04	Sanctions Authorized.....	30
19.08.05	Sanctions Guidelines	30

Chapter 19.09 Miscellaneous Provisions

19.09.01	Validity, Severability.....	31
19.09.02	Amendments	31
19.09.03	Suspension of Code	32
19.09.04	Emergency Response Plan.....	32
19.09.05	Routine and Preventative Maintenance	32
19.09.06	Sampling Procedure and Violation Response Procedure	33
19.09.07	Cross Connection Control Program.....	33

TITLE 19

UTILITY CODE

Chapter 19.01 General Provisions

19.01.01 Title and Date

This code shall be titled the Port Gamble S’Klallam Tribal Utility Code. The code shall become effective on February 11th, 1992, as enacted into Tribal law by Resolution 92-A-26 which was passed on February 11th, 1992.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to remove water and sewer from the name of the code, as the Tribe now provides/administers additional services to residents.]

19.01.02 Purpose

The purpose of this Utility Code is to define the policies, establish an organization, and identify the necessary rules and regulations for the operation, maintenance and management of Tribal Utilities and Environmental Services located on the Port Gamble S’Klallam Reservation.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term “Tribal Utilities and Environmental Services.”]

19.01.03 Policy

It shall be the policy of the Port Gamble S’Klallam Tribe to operate, maintain and/or manage Tribal Utilities and Environmental Services on the Port Gamble S’Klallam Reservation so that the community residents are provided with a high level of environmental protection 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 Port Gamble S’Klallam Tribe that the operation, maintenance and/or management of Tribal Utilities and Environmental Services shall be carried out through an efficient program and in a financially responsible, cost effective and self-sufficient manner.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term “Tribal Utilities and Environmental Services.”]

19.01.04 Jurisdiction

The authority to establish a Utility Board and Department and to levy appropriate user fees to all residents and organizations operating on the Port Gamble S'Klallam Reservation is provided pursuant to the Port Gamble S'Klallam Tribal Constitution.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

Chapter 19.02 Definitions of Terms

19.02.01 General

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

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.02.02 Appurtenances

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

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.02.03 Collection System Lines

"Collection System Lines" are those sanitary sewer lines maintained by the Utility Department by which sewer service is provided to customers. They generally begin at the inlet pipe to the septic tank and include the septic tank, step pump and the line to the sewer main.

[HIST: Adopted by resolution 95-A-082, passed 9/20/95.]

19.02.04 Contractor

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

[HIST: Adopted by resolution 95-A-082, passed 9/20/95.]

19.02.05 Customer

“Customer” means a person, business, agency or other organization that uses, is entitled to use, or is obligated to pay for the use or receipt of services from the Utility Department.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.02.06 Customer Lines

“Customer Lines” are the potable water 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 collection or distribution system lines or are maintained by the customer separately.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.02.07 Distribution System Lines:

“Distribution System Lines” are those potable water lines maintained by the Utility Department by which water service is provided to customers.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.02.08 Intermediate Lines

“Intermediate Lines” are those side sewer and/or water extension lines that connect a structure to the Distribution or Collection system lines. They may be owned by the Utility Department or the Customer and the Utility Department may require the installation of these lines and may require that the construction cost be borne by the builder/developer.

[HIST: Adopted by resolution 95-A-082, passed 9/20/95.]

19.02.09 Manager

“Manager” shall mean an individual hired by or appointed by the Tribe according to established Tribal Personnel Policies to oversee and manage the operation of the Utility.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.02.10 Meter

“Meter” is a device, owned by the Utility Department, for measuring the amount of water provided to a particular customer.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.02.11 Off-Reservation

“Off-Reservation” is any area located outside of the exterior boundaries of the Port Gamble S’Klallam Reservation.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.02.12 On-Site Sewage Treatment and Disposal Systems

“On-Site Sewage Treatment and Disposal Systems” shall mean individual or community septic tanks and subsurface drain fields and associated appurtenances that collect, treat and dispose of liquid waste generated by customers, which are either maintained and/or operated by the Utility Department or by individual customers.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.02.13 Operator

“Operator” shall mean an individual hired by or appointed by the Tribe according to established Tribal Personnel Policies to provide direct day-to-day preventive maintenance and operational service for the public water and sanitary sewer utilities.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.02.14 Regulation

“Regulation” is a rule or procedure recommended by the Utility Board and duly adopted by the Tribal Council for purposes of implementing the requirements of this Code.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the “Utility Committee” to “Utility Board” to more accurately reflect its authority and independence.]

19.02.15 Residents

“Residents” is the term applied to all persons living on the Port Gamble S’Klallam Reservation whether they are enrolled Tribal Members or any others residing inside the external boundaries of the reservation.

[HIST: Adopted by resolution 95-A-082, passed 9/20/95.]

19.02.16 Septic System Cleaner

“Septic System Cleaner” shall mean any individual, firm, contractor or organization who the Utility Department 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 Port Gamble S’Klallam Reservation.

[HIST: Resolution No. 92A 026, passed 2/11/92.]

19.02.17 Shall, May

“Shall” is mandatory, “May” is permissive.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.02.18 Tribal Utilities and Environmental Services

“Tribal Utilities and Environmental Services” are the services that the Utility Department provides to Residents. Those services include providing domestic water and sewer, and overseeing third-party collection of garbage and recycling. Additional services may be provided upon recommendation by the Utility Board and approval by the Tribal Council.

[HIST: Resolution No. 23-A-110, passed 9/5/23, added this definition to make code language more succinct and future addition or removal of services easier.]

19.02.19 Utility Board

“The Utility Board” or “the Board” is the subordinate advisory body appointed by the Tribal Council which is responsible for the oversight of the management of the Utility Department.

[HIST: Adopted by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the “Utility Committee” to “Utility Board” to more accurately reflect its authority and independence.]

19.02.20 Utility Department

“The Utility Department” or “the Department” is the entity responsible for and authorized to manage the provision of water and sewer utility services for the Port Gamble S’Klallam Tribe, as established by this code.

[HIST: Adopted by resolution 95-A-082, passed 9/20/95.]

19.02.21 Vendor

“Vendor” is any individual, firm, contractor or organization who regularly supplies parts, equipment, supplies or services to the Utility

Department which are used in the operation, maintenance and management of Tribal Utilities and Environmental Services of the Port Gamble S'Klallam Reservation.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term "Tribal Utilities and Environmental Services."]

Chapter 19.03 Utility Department and Utility Board

19.03.01 Establishment of Utility Department

There is hereby established the Port Gamble S'Klallam Tribal Water and Sewer Utility Department having the responsibility for operating and maintaining Tribal Utilities and Environmental Services.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term "Tribal Utilities and Environmental Services."]

19.03.02 Utility Board

There is hereby established the Port Gamble S'Klallam Tribal Utility Board to serve as the advisory, administrative and management authority for the Port Gamble S'Klallam Tribal Utility Department.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.03.03 Operating Organization

The Utility Board 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 Board shall be set forth in this code and in bylaws adopted by the Tribal Council.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence and to make reference to Utility Board bylaws adopted by the Tribal Council and to reference Utility Board bylaws.]

19.03.04 Powers and Responsibilities

The Utility Board shall oversee management of Tribal Utilities and Environmental Services.

To fulfill these responsibilities, the Board shall make recommendations to Tribal Council with regard to:

- (1) The levy and collection of reasonable fees for Tribal Utility and Environmental Services;
- (2) The hiring and compensation of appropriate management and maintenance personnel;
- (3) The adoption of appropriate regulations to implement the requirements of this Code;
- (4) The disbursement of funds for operation, maintenance and repair of Tribal Utility and Environmental Services; and
- (5) Contracting with vendors and contractors.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term "Tribal Utilities and Environmental Services" and to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.03.05 Membership

The Utility Board shall be composed of five enrolled tribal members and community members, limited to a maximum of two non-tribal members, neither of which shall be chair. No less than three shall be tribal members.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence and to remove requirement that Board include one Tribal Council member and one Housing Authority member.]

19.03.06 Term of Office

Utility Board Member positions shall be appointed or reappointed every four (4) years according to the Boards and Committees Policy and the Utility Board bylaws.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence, to remove requirement that Board include one Tribal Council member and one Housing Authority member, and to change the member terms to four years.]

19.03.07 Vacancies

If any Utility Board Member misses two consecutive Utility Board meetings without a valid excuse, the Tribal Council shall declare the

position vacant. All vacancies shall be filled within one month. In the event that the number of unfilled Utility Board Member vacancies prevents gathering of a quorum for purposes of conducting business, the Tribal Council shall act as the interim Utility Board until such time as the filling of Utility Board Members' vacancies allows for a quorum.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.03.08 Officers

The Utility Board shall elect officers to fill the posts of Chair, Vice Chair and Secretary from among themselves. The officers shall be elected after the appointments have been made to the Utility Board by the Tribal Council per section 19.03.06.

[HIST: Adopted by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.03.09 Duties of Officers

Officers of the Utility Board shall assume the following duties:

1. Chair - Shall preside at all meetings, call and arrange all meetings, be responsible for all general management of the Utility Board's affairs, and perform all duties incidental to the office.
2. Vice Chair - Shall perform all of the Chair's duties in the absence of the Chair and shall assist the Chair as required in handling the Utility Board's affairs.
3. Secretary - 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 Board.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.03.10 Meetings

The Utility Board shall meet regularly and when business demands and requires attention. Regular and special meetings shall be scheduled by the Chair. Any two Utility Board Members may request the Chair, in writing, to schedule a special meeting of the Utility Board. If the Chair fails to schedule a meeting within five days after receipt of a written request, any other two Utility Board Members may call such a meeting. All meetings

shall be open to tribal members and to users of Tribal Utilities and Environmental Services. The Utility Board bylaws shall detail methods of community notice of Utility Board meetings.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Resolution No. 14-A-108, passed 8/11/14, amended this section to remove the requirement that the Committee meet no less than once per month. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term "Tribal Utilities and Environmental Services", to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence, and to remove specific public notice requirements now included in the Utility Board bylaws.]

19.03.11 Quorum and Voting

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

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.03.12 Meeting Agenda

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

1. Call to Order
2. Reading of minutes of previous meeting
3. Report of Finances
4. Report by Manager and/or Operator
5. Old business
6. New business
7. Miscellaneous business
8. Adjournment

[HIST: Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence and to make compensation consistent with the Boards and Committees Policy.]

19.03.13 Compensation

The Utility Board members shall receive reasonable compensation for their services. Stipend amounts shall be set and approved by the Tribal Council in accordance with the Boards and Committees Policy and the Utility Board bylaws and shall be of a similar amount received by board members serving on other comparable boards. Board Members shall receive compensation for travel and expenses in accord with established Tribal Administrative policy.

[HIST: Adopted by resolution 95-A-082, passed 9/20/95. Amended by resolution 09-A-056, passed 5/12/09, to allow for utility committee stipend amount changes without requiring a change to the Utility Code. Code originally set stipend amounts at \$40.00. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence and to make compensation consistent with the Boards and Committees Policy.]

19.03.14 Public Hearings

The Utility Board shall convene public hearings to discuss changes in Tribal Utilities and Environmental Services rates assessed to customers and proposed changes to the Utility Code. All persons who are directly charged for Tribal Utilities and Environmental Services shall be afforded ten days written notice of such hearings, and adequate notices shall be posted at appropriate places within the community.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term "Tribal Utilities and Environmental Services" and to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

Chapter 19.04 Management and Finances

19.04.01 Management Personnel

The Utility Board shall oversee management, in an advisory capacity, of the business and operating affairs of the Utility Department. The Utility Board may make recommendations regarding the hiring and contracting personnel for the care and maintenance of the Tribal Utilities and Environmental Services (provided that hiring shall be in accordance with tribal personnel policies), and shall establish compensation rates consistent with the Utility Department's approved budget. The Utility Board may delegate only those management duties that are not specifically designated as duties to be performed by the Utility Board.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term "Tribal Utilities and Environmental Services" and to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.04.02 Annual Budget

The Utility Board shall propose an annual budget enumerating the necessary costs of Tribal Utilities and Environmental Services operations, maintenance, administration, personnel, liability and other insurance, replacement, and a reserve for major repairs and replacements. The Department's annual budget will be presented to the Council for its approval prior to the commencement of the Tribe's fiscal year.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term "Tribal Utilities and Environmental Services" and to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.04.03 User Fee Schedule

The annual budget shall be used to determine a fee schedule to be assessed to the users of Tribal Utilities and Environmental Services. The budget and fee schedule shall be approved by the Utility Board.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term "Tribal Utilities and Environmental Services" and to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.04.04 Contingency Fund – REPEALED

[HIST: Adopted by resolution 95-A-082, passed 9/20/95. Repealed by Resolution No. 23-A-110, passed 9/5/23.]

19.04.05 Depository

The depository of the Department shall be in the Tribe's General Account but shall be accounted for by separate accounting statements clearly indicating all receipts taken in for the benefit of Utility Department activities.

19.04.06 Records and Accounts

Suitable financial records shall be maintained for all expenditures, receipts from payments for services, investments and returns on investments, and any other financial matters necessary for operation of the Utility Department. The separate accounting records for the Department shall be maintained in an appropriate accounting procedures manual. The records of accounts shall be made available to the Tribal Council upon request.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term "Utility Department."]

19.04.07 Exclusive Use of Funds

The funds accrued by the Utility Department and kept on deposit are for the exclusive use of the Utility Department for the necessary operation, maintenance, and management of Tribal Utilities and Environmental Services. Utility Department 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 Department by other Tribal departments.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term "Tribal Utilities and Environmental Services."]

19.04.08 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 Tribal Administrative Director. 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.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.04.09 Regulations and Policy

The Utility Board shall have the authority to make recommendations to the Tribal Council regarding the adoption of appropriate regulations and policy as needed to implement the provisions contained in this code.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.04.10 Regulation, Policy Suspension Alteration

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

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.04.11 Amendments

The Utility Board shall recommend amendments to this code that it believes necessary to promote the efficient, cost effective and self-

sufficient operation of the Utility Department, and shall present such amendments to the Tribal Council for approval.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.04.12 Grievances

Any customer or any applicant for utility services, who is aggrieved by any action of the Utility Department may file a grievance with the Utility Board. The Utility Board shall abide by provisions of this code and shall handle such grievances in a manner which provides for due process of law.

All decisions by the Utility Board on matters that have been submitted for grievance under the Department's grievance procedures shall be considered final. Final decisions of the Utility Board may be appealed to the 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. This provision shall not constitute a waiver of sovereign immunity and in no case is the Port Gamble S'Klallam Tribe or the Utility Board or Utility Department liable for money damages.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.04.13 Non-Waiver of Sovereign Immunity

The Utility Department is a department of the Port Gamble S'Klallam Tribal Government, 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 Port Gamble S'Klallam Tribe or any of its officers, agents, attorneys or employees, or anyone else acting at the direction of and on behalf of the Port Gamble S'Klallam Tribe.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

Chapter 19.05 Utility Services - Operation

19.05.01 Services Provided

The Tribal Utility and Environmental Services provided by the Utility Department shall include domestic water, sewer, and appurtenances, and services provided by a third-party and overseen by the Utility Department shall include the collection of garbage and recycling. Additional services

may be provided upon recommendation by the Utility Board, and approval by the Tribal Council.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term "Tribal Utilities and Environmental Services," to add third-party garbage and recycling collection to the list of services overseen by the Utility Department, and to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.05.02 Water Service

The Utility Board is responsible for providing safe, adequate water for a fee to those houses, businesses and institutions connected to the Distribution System Lines of the community water system. Responsibility for maintenance will include water sources, storage tanks, controls, Distribution System Lines, meters, valves and hydrants, and service lines to the curb stops or meters only. The service line from the curb stop or meter to the house and interior house plumbing are the responsibility of the customer. The individual household water meters are owned by the Utility Department and it is the responsibility of the Department to maintain those meters.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.05.03 Meters

All homes hereafter that are connected to the community water system are required to install a water meter. All meters for the measurement of utility services provided shall be installed in the location specified by and in accordance with the requirements of the Utility Department. All such meters shall be the property of the Utility Department and shall be maintained by it. All meters shall remain accessible to Utility Department 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 holder of the lot assignment, homebuyer or renter where the meter is located shall be responsible for all damage to, tampering with, or turning the valve on the meter.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.05.04 Public Water Use Requirements

The holder of the lot assignment, homebuyer or renter of each lot or parcel of real property within an area served by the tribal water system, and where the community water or sewer system is within 200 feet of any

dwelling, business or water or sewer service using activity and to which service by such public or community water or sewer system is available, is hereby required, at his or her expense, to connect such facilities to the community water or sewer system in accordance with the provisions of this code. Such installations and connections must be made within 60 days after the date of mailing or personal service by the utility addressed to the holder of the lot assignment, homebuyer or renter to be served notifying such person or entity to make such connection unless such time shall be extended by the Utility Department.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.05.05 Obtaining Service Without Authorization

No person shall obtain water or sewer services from Utility Department facilities without authorization. Any person who obtains such unauthorized service by connecting to Utility Department facilities without authorization or by bypassing or tampering with any meter shall be liable to the Utility Department for actual costs and penalties.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.05.06 Sewer Service

The Utility Department is responsible to provide sanitary disposal of domestic liquid waste, for a fee, to those houses connected to the Collection System Lines of the community sewer system. Responsibility for maintenance includes treatment facilities, pumping stations, mainlines, manholes, step pumps, and service lines to the inlet of the septic tank. The service line from the septic tank inlet to the house, and interior house plumbing are the responsibility of the customer.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.05.07 Garbage and Recycling Service

The Utility Department is responsible for overseeing, but not directly providing, the sanitary disposal of domestic solid waste, for a fee, and recycling services to those houses within the Reservation; this service is provided by a third-party.

[HIST: Resolution No. 23-A-110, passed 9/5/23, added garbage and recycling service section.]

19.05.08 Internet Service

- a) Residents within the Reservation may also opt into receiving internet provided by the Tribe's Information Technology Department, subject to any eligibility requirements imposed by the Tribe.
- b) Billing for such services will be done in accordance with this Title; the Utility Board will provide oversight and guidance over rates and other Internet billing matters, including the process and eligibility of new service connections.
- c) The Information Technology Department is responsible for the operation, connection, and maintenance of the internet service provided by the Tribe, including resolving technical issues and service interruptions.
- d) Hardware & Other Equipment:
 - i) All hardware and other equipment placed on the property or otherwise provided to the customer by the Information Technology Department remains property of the Tribe, except if otherwise stated by specific agreement. The customer shall be liable for any damage to such equipment that is attributable to the customer's action or inaction. Failure to pay for damages shall be grounds for disconnection and/or any other sanction provided for in this code.
 - ii) The Information Technology Department shall not be responsible for, nor shall it maintain or repair, any private hardware or other equipment, except by specific agreement establishing fair rates of compensation to the Tribe, and that is approved and signed by the Utility Board and the customer.

[HIST: Resolution No. 23-A-110, passed 9/5/23.]

19.05.09 Future Services

At some future date the Utility Department may assume responsibility to provide any other utility services that are authorized by the Utility Board and by Tribal Council resolution.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.05.10 Maintenance Schedule

The Utility Department shall develop and follow a regular schedule of maintenance service for each water and sewer system and components thereof.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.05.11 Personnel

Existing Tribal Staff may be used and employed by the Utility Department to provide necessary maintenance and management services through agreements approved by the Tribal Council and the Utility Board. The specific personnel policies of the Tribe shall be followed, including the Confined Space Entry Policy. Job descriptions for all employees will be developed and followed.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term "Tribal Utilities and Environmental Services," to reference the Tribe's Confined Space Entry Policy, to state that a personnel recommendation from the Utility Board would be made to the Utility Department Director, and to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.05.12 Equipment

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

Utility Department 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.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.05.13 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 list shall be kept of local suppliers of repair parts, replacement equipment and expendable supplies.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.05.14 Public Relations

Any person filing a complaint or seeking information shall be given assistance in a courteous manner. Complaints may be presented verbally and in writing to the Utility Board for resolution and action. The Utility Board will resolve such complaints at the next regularly scheduled meeting of the Board.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.05.15 Emergency Notification

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

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.05.16 Staff Training

All employees that are newly assigned to operate the utility systems shall receive appropriate training.

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

A training plan for the system operators shall be developed which will provide for upgrading of knowledge and skills in water and sewer utility operations, maintenance and management. The goal of the training program shall be to meet Washington State certification requirements as an Operator or Manager.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.05.17 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 Board 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.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.05.18 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 ensure 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 costs and related expenses and add them to the affected customer's bill.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.05.19 Disruption of Service

The Department may shut off water or sewer service, provided that advance notice has been given to affected customers. The Department may disrupt traffic on the public right-of-way to perform repairs, provided that advance notice has been given to the Tribe. 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 resulting from authorized disruptions of Tribal Utilities and Environmental Services.

The Department 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 sewer to or from any mains,

services, hydrants, lines or reservoirs during authorized disruptions of service.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term “Tribal Utilities and Environmental Services.”]

19.05.20 Construction Permission

No connection to, 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 from the Utility Department. No construction of any private water or sewer system, or other private utility is authorized without written permission from the Utility Department. The Utility Department may require such plans from the applicant as it determines are necessary to decide whether or not permission should be granted.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to move the approval authority for new connections to Tribal utilities or construction of private water or sewer systems from the Committee to the Department.]

19.05.21 Water Shortage - Service Preference

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

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the “Utility Committee” to “Utility Board” to more accurately reflect its authority and independence.]

19.05.22 Unnecessary Waste of Water

The Utility Board reserves the right to terminate customer’s service when the customer has repeatedly, unduly wasted water. Such undue waste is evidenced by the fact that hydrants, taps, hoses and other fixtures are permitted to run continuously when not in productive use. Where such conditions have been observed, the Utility Department shall notify the customer of the condition and may terminate water to the premises if the condition is not corrected within 12 hours after receipt of the notice by the customer. 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 Board.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.05.23 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 and to limit water use as necessary to provide a comfortable, healthy and aesthetically pleasing life style. 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 Board.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.05.24 New Customer Services

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

1. The existing facilities are adequate to meet the additional load, as determined by the Utility Department or its engineers.
2. The new customer agrees to adhere to this Code.
3. Approval is given by the Utility Board.
4. With New Connections - Water Conservation:

New or existing homes or buildings which are not connected to the community water system at the time of adoption of this code, shall not be allowed to connect to the community water system unless the said facility is equipped with the following water conservation devices which consume water at a maximum of:

*2 gpm for shower heads;

*2-1/2 gpm for kitchen faucets/aerators;

*1 gpm for urinals;

*1.5 gpm for lavatory faucets / aerators;

*1.6 gpm for ultra low flow toilets.

All applicants for new service must be able to show proof that the above conservation devices are or will be installed prior to connection to the community system.

5. With New Connections - Sewer System Provisions:

Homes and other buildings which are not connected to the community sewer system at the time it begins operation shall not be allowed to connect to the system unless the structure has a back-up drainfield. Exceptions to this rule can be granted by the Utility Board if it is not practical or if soils cannot pass a percolation test.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

Chapter 19.06 Customer Obligations

19.06.01 Conditions For Service

As a condition for receiving utility services from the Utility Department, the customer agrees to comply with all provisions of this Code, and any regulations duly adopted by the Tribal Council 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 Utility Department.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.06.02 Bill Payment Responsibility

Lot holders are ultimately responsible for the payment of the Utilities and Environmental Services bills attributed to their lot. The Utility Department may bill someone other than the lot holder only in the following circumstances:

- a) The lot holder files a notarized document with the Utility Department authorizing permission for a Council-approved resident to pay for Utilities and Environmental Services;
- b) Tribal Court authorizes a resident to pay for Utilities and Environmental Services; or

- c) In the event of the death of a lot holder or resident approved by Tribal Council, residents of the lot are responsible for payment of Utilities and Environmental Services until the lot is reassigned.
 - i) Residents have ninety (90) days to initiate a Temporary Name Change on the Customer Account associated with the lot to avoid shut off and /or discontinuation of services.
 - ii) Approval of a Temporary Name Change does not confer authority over the lot, nor does it have any bearing on a person's claims to any improvements on the lot or future assignment of the lot.

[HIST: Resolution No. 19-A-151, passed 12/16/19, created this section to clarify that a lot holder is a designated customer and explains the process for the tribe to bill someone other than the lot holder for utility services. Amended by Resolution No. 23-A-110, passed 9/5/23, to place utility payment responsibility on the current residents after the death of a lot holder or approved resident through the "Temporary Name Change on Customer Account" process.]

19.06.03 Maintenance, Repairs, Liability

a) Customer Lines

- i) 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.
- ii) The customer shall notify the Utility Department in advance of major maintenance or repairs planned for water or sewer lines.
- iii) The customer shall permit the Utility Department to inspect the work for compliance with applicable regulations.

b) Utility Department Lines & Facilities

- i) The customer shall be liable for any damage to the Utility Department's lines, facilities, equipment or other property caused by the customer, the customer's family, guests, tenants, agents, employees, contractors, licensees, or permittees, or other persons under the customer's control or authority, pursuant to section 19.06.12.
- ii) The customer shall maintain their lot in a manner that does not cause damage to Utility Department lines or facilities, including but not limited to any septic tanks or lift stations located on or near the lot.

- iii) The customer shall maintain reasonable access to Utility Department lines and facilities located on their lot for maintenance and repairs.
- iv) The Utility Department may issue a notice if a customer's action or inaction is likely to cause damage to Utility Department lines or facilities or prevents reasonable access to Utility Department lines or facilities for needed maintenance or repairs. The customer shall comply with such notice or be subject to a fine and/or any other sanction provided for in this code.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to make clear customer's duty to maintain their lot to avoid damage to utility lines and facilities and to provide the Utility Department with authority to issue notices, fines, and/or other sanctions to prevent such damage.]

19.06.04 Customer Termination of Service, Abandonment

A customer planning to vacate any grounds, building or residence served by the Utility Department shall notify the Utility 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 Utility Department, or up until service is terminated, whichever comes first.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.06.05 Water Shortages

During water shortages declared by the Utility Department, customers shall limit their use of water according to allocations established by the Utility Department.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.06.06 Inspections

The customer shall not unreasonably withhold permission for the Utility Department to inspect the Department'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 his unreasonable withholding of permission.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.06.07 Written Authorization

The customer shall obtain written authorization from the Utility Department prior to making any connection, re-connection with, disconnection from, or other private use of any Utility Department water or sewer system, road, appurtenance, or other utility service or facility. The customer shall apply and obtain written authorization from the Utility Department or authorized delegate prior to constructing any private water or sewer system, or other private utility.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.06.08 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.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.06.09 Use of Sewer System

The customer shall use the sewer collection, treatment and disposal system only for the disposal of normal household liquid waste including waste from toilet facilities, shower and bathing facilities, clothes washing facilities, and kitchen facilities.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.06.10 Unauthorized Disposal

- a) The customer shall not dispose of any material into the sanitary sewer which may cause the collection lines, subsurface drain field, or septic tank to become blocked or excessively loaded with solids, except toilet paper or human waste.
- b) Prohibited items include but are not limited to: garbage, disposable diapers, sanitary napkins, tampons, contraceptives, flushable wipes, cigarette waste, cat litter, or paper material (other than toilet paper).

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to clarify what items cannot be disposed of into the sewer.]

19.06.11 Toxic Waste Disposal

No customer shall dispose of any toxic, radioactive or otherwise hazardous waste into any Utility Department or private sanitary or storm sewer system. Toxic and hazardous waste includes but is not limited to: oil, pesticides, gasoline, organic solvents, paint, anti-freeze, poisons, and other manufactured chemical compounds.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.06.12 Customer Damage to Lines or Facilities

No customer shall damage any Utility Department lines or facilities through intentional or negligent actions or inaction. Any damage attributable to customer action or inaction shall be paid for by the customer. Failure to pay for damages shall be grounds for disconnection and/or any other sanction provided for in this code.

[HIST: Adopted by resolution 95-A-082, passed 9/20/95.]

Chapter 19.07 Fee Schedules and Billing

19.07.01 Fee Schedule Establishment

The schedule of fees for Tribal Utility and Environmental Services shall be set annually by the Utility Board. The fee schedule shall be based on the estimated average annual costs for operation of all 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, metered rates, penalties and assessments which the Utility Board is authorized to levy as provided under various sections of this Code. The fee schedule may be adjusted as needed to meet Utility Department operating expenses.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term "Tribal Utilities and Environmental Services" and to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.07.02 Charge for Connection, Fees and Charges

The standard participation contract for Tribal Utilities and Environmental Services shall provide that before the property receives such service, the customer must pay, to the Utility Department, such connection and other charges as provided by this Code. The charge must be paid in full or such arrangement as the Utility Department shall approve for item payments shall be agreed to before connecting to the public sewers or water supply systems of the Utility Department is permitted.

Any such arrangement shall also provide for interest to be collected upon the unpaid balance of the charges at a rate of one percent per month upon the unpaid balance compounded annually. Failure to complete payment of the connection charges shall become a lien against the personal property.

Instead of any charge, the Utility Department, at the discretion of the Utility Board, may accept from the customer a sewer or water pipeline of sufficient value installed in an easement of public right-of-way, or some other performance reflecting value approximating the charge.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term “Tribal Utilities and Environmental Services” and to change the name of the “Utility Committee” to “Utility Board” to more accurately reflect its authority and independence.]

19.07.03 Public Notice

The Utility Board shall hold a public hearing whenever a new fee schedule is proposed for adoption. Thirty 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 Board shall set a fee schedule, taking into consideration comments received at the hearing.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the “Utility Committee” to “Utility Board” to more accurately reflect its authority and independence.]

19.07.04 Notice to Customers

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

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the “Utility Committee” to “Utility Board” to more accurately reflect its authority and independence.]

19.07.05 Billing Responsibility

The Utility Board and/or Utility Department is responsible for billing customers for Tribal 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 Board and Tribal Council.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Resolution No. 19-A-

151, passed 12/16/19, amended this section to include the responsibility of billing customers for garbage collection service. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term "Tribal Utilities and Environmental Services" and to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.07.06 Monthly Statement

The first working day of 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.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.07.07 Due Date

All payments are due by the 20th of each month.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.07.08. Payments Past Due

Payments not received by the 20th of each month 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.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.07.09 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.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.07.10 Delinquency Notice and Fees

- a) The Department shall immediately notify the customer in writing once his account has been declared delinquent, and Tribal Utilities and Environmental Services shall be terminated. Notice of delinquency shall be made by certified mail or such other means to provide proof of receipt by the customer.
- b) Once an account has been declared delinquent and services have been terminated, the customer will be required to pay the bill in full (including any assessed fees), pay the reconnection fee, and install a water meter (through the Utility) prior to re-establishing service unless a meter already exists.
- c) New customers, including residents seeking a Temporary Name Change pursuant to section 19.06.02(c), are not responsible for the Tribal Utilities and Environmental Services bills or assessed fees billed to a deceased customer. New customers may be subject to a reconnection fee or other necessary costs to re-establish Tribal Utilities and Environmental Services.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to use defined term "Tribal Utilities and Environmental Services" and to establish that new customers are not responsible for the utility bills of deceased customers.]

Chapter 19.08 Enforcement, Penalties, Sanctions

19.08.01 Authority and Enforcement

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

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.08.02 Assessment of Court Fines

The Utility Board 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.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by

Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.08.03 Penalty Schedule

The Utility Board 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 Board.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.08.04 Sanctions Authorized

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

1. Termination of services;
2. Assessment of penalties based on a penalty schedule adopted by regulation;
3. Assessment of late charges based on a schedule adopted by regulation;
4. Assessment of damages resulting from the customer's non-compliance;
5. Forfeiture of all or part of a deposit;
6. Filing suit for damages in a court of competent jurisdiction; and
7. Referring violations that may involve criminal conduct to the police or prosecutor.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.08.05 Sanctions Guidelines

The Utility Board 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 the customer and/or family if the sanction is imposed;
4. The irreparable harm to operation of the Utility Department, and to the Tribe, if the sanction is not imposed;
5. The customer's past record of compliance or non-compliance, or good faith efforts to achieve compliance;
6. The customer's statements or behavior indicating the likely success of a given sanction securing compliance;
7. The irreparable harm to other persons or property if the sanction is not imposed; and
8. The effectiveness of similar sanctions in securing compliance in other cases.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

Chapter 19.09 Miscellaneous Provisions

19.09.01 Validity, Severability

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

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93.]

19.09.02 Amendments

The Port Gamble S'Klallam 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 Board, by approval or disapproval of such proposed amendments.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.09.03 Suspension of Code

No employee, officer, contractor or agent of the Port Gamble S'Klallam Tribe is authorized to suspend or alter any of the provisions of this code without the formal approval of the Port Gamble S'Klallam Tribal Council.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.09.04 Emergency Response Plan

An Emergency Response Plan (ERP) has been included in Appendix 1 to guide personnel response to ordinary and unusual system malfunctions. The elements in this ERP include standard operating procedures, emergency alert rosters, lists of equipment supplies, technical representatives, adjacent utilities, and special needs customers. Proper staffing, training, and communication, as well as maintenance of suitable repair parts inventory, are also basic to the plan.

The Emergency Response Plan in Appendix 1 consists of a Vulnerability Assessment, Contingency Plan, and Emergency Response Procedures. The Vulnerability Assessment evaluates the system and potential disasters most likely to affect the Utility. The Contingency Plan summarizes the appropriate actions, priorities, and alert rosters necessary for the Utility Board. The Utility Department should develop a list of priority service customers, such as kidney dialysis patients, medical centers, or other special use customers in case of an emergency. The Utility Department should maintain supplies and repair materials on hand and have a list of emergency telephone numbers for local equipment suppliers, and adjacent utilities.

An emergency working agreement with a reputable local electrical, pump/motor repair company for support should be maintained.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.09.05 Routine and Preventative Maintenance

The Utility Department shall follow a routine schedule of monitoring and maintaining the facilities within its different systems. Good preventative maintenance is both cost-effective and a deterrent to emergency conditions. Following a set schedule of maintenance activities ensures efficient and reliable system operations and extended life of mechanical equipment. Maintenance forms have been combined with other suggested record keeping documents to ensure a good schedule of system maintenance. Appendix 2 summarizes the suggested routine and preventative maintenance activities and forms.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95.]

19.09.06 Sampling Procedure and Violation Response Procedure

The Utility Board has authority to develop procedures to sample and monitor the Tribe's water supply.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to change the name of the "Utility Committee" to "Utility Board" to more accurately reflect its authority and independence.]

19.09.07 Cross Connection Control Program

All cross connections between the Utility Department water system and another supply of water must be done in compliance with the Cross Connection Control Policy.

[HIST: Resolution No. 92A 026, passed 2/11/92. Amended by resolution 93-A-043, passed 6/8/93. Amended by resolution 95-A-082, passed 9/20/95. Amended by Resolution No. 23-A-110, passed 9/5/23, to add reference to the Tribe's Cross Connection Control Policy.]