

TITLE 8
WATER AND SEWER UTILITY AUTHORITY

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TITLE 8
WATER AND SEWER UTILITY AUTHORITY

CHAPTER 8-1 GENERAL PROVISION (adopted October 8, 2002)

§8-1-1 Title

This Title shall be known as the Water and Sewer Utility Authority.

§8-1-2 Purpose

The purpose of this Title is to define the policies, establish an organization, and identify the necessary rules and regulations for:

(a) the operation, maintenance, and management of the various tribal water and sewer utilities located on the Nez Perce Reservation; and

(b) management for the provision of essential environmental services within the tribal community.

§8-1-3 Policy

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

§8-1-4 Validity / Severability

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

§8-1-5 Suspension of Title

No employee, officer, contractor, or agent of the Nez Perce Tribe is authorized to suspend or alter any of the provisions of this Title without the formal approval of NPTEC.

§8-1-6 Definitions

Unless the context specifically indicates otherwise, the following definitions shall apply to this Title:

(a) AAppurtenances@ are the real and personal property owned by the Nez Perce Tribe located on, near, or under the roadways and streets, such as fire hydrants and valves.

(b) ACustomer@ 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 Nez Perce Tribe.

(c) ACustomer lines@ are the potable waterlines located immediately adjacent to, inside of, or under a customer's residence or other building or property, which are either

connected to utility service lines or are maintained by the customer separately from utility service lines.

(d) A**Garbage@** shall mean all degradable and non-degradable refuse and solid waste without economic value that is generated through the course of normal living by the residents and organizations in the community.

(e) A**Distribution system lines@** are those potable water lines maintained by the Tribe by which water utility services are provided to customers.

(f) A**Meter@** is a device, owned by the Tribe, for measuring the amount of water utility services provided to a particular customer.

(g) A**Manager@** shall mean an individual hired by or appointed by the Tribe to oversee and manage the operation of the Utility Department.

(h) A**Operator@** shall mean an individual hired by or appointed by the Tribe or manager to provide direct day to day preventive maintenance and operational service for the public water and sanitary sewer utilities.

(i) A**On-site sewage treatment and disposal systems@** shall mean individual or community septic tanks and subsurface drain fields and associated appurtenances that collect, treat and dispose of liquid waste generated by customers, which are maintained and operated by the Utility Department.

(j) A**Off-reservation@** is any area located outside of the exterior boundaries of the Nez Perce Reservation.

(k) A**Regulation@** is a rule or regulation adopted by the Tribe pursuant to Chapter 2-5 of the Nez Perce Tribal Code for purposes of implementing the requirements of this Title.

(l) A**Septic System Contractor@** shall mean any individual, firm, contractor, or organization who the Tribe 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 Nez Perce Reservation.

(m) A**Service Area@** means the communities and areas served by tribal water and/or sewer services.

(n) A**Tribal Community,@** for purposes of this Title, shall include, but not necessarily be limited to, enrolled members of the Nez Perce Tribe and all residents of tribally-owned housing.

(o) “Contractor” shall mean any individual firm contractor or organization who contracts with the Tribe to provide environmental services utility repairs, design, inspection, reconstruction, or operation.

(p) “Utility Services” are those basic services necessary for supporting residential and commercial development, including, but not limited to, water and sewer services.

(q) A**Utility Board@** is the board responsible for oversight of the Utility Department

and the implementation of this Title.

(r) AUtility Department@ is a governmental department of the Nez Perce Tribe authorized to operate the water and sewer utility services provided by the Tribe.

(s) ADepartment@ shall mean the Utility Department of the Nez Perce Tribe.

(t) AVendor@ is any individual firm, contractor, or organization who regularly supplies parts, equipment, supplies and services to the Utility Department used in the operation maintenance and management of the Tribe=s water and sewer utilities.

(u) ACollection Lines@ are those sanitary sewerage lines maintained by the Utility Department by which sanitary sewer collection and disposal services are provided to customers.

CHAPTER 8-2
UTILITY DEPARTMENT AND BOARD ESTABLISHMENT AND AUTHORITY
(adopted October 8, 2002)

§8-2-1 Utility Established

There is hereby established the Nez Perce Tribe Water and Sewer Utility Department having the responsibility for operating and maintaining the tribal public water and sewer utilities and providing essential community environmental services directly or by contract.

§8-2-2 Board Established

There is hereby established the Nez Perce Tribe Sewer and Water Utility Board to serve as the advisory, administrative, and management oversight authority for the Utility Department.

§8-2-3 Board Authority

The Board shall operate as a subordinate unit of tribal government, independent in its daily operation, but responsible to NPTEC for its actions. The methods of appointment, terms of office, and operating procedures of the Board shall be set forth in this Title and in bylaws adopted by the Board and approved by NPTEC.

§8-2-4 Board Powers and Responsibilities

The Board shall manage the water and sewer utilities of the Tribe, and obtain and disburse funds as required for operation, maintenance and expansion of the water and sewer utilities. To fulfill these responsibilities, the Board shall have the power to:

(a) Levy and collect necessary and reasonable fees required for the operation of utility services;

(b) Provide for the hiring and compensation of appropriate management and maintenance personnel subject to the Nez Perce Tribe Human Resources Manual;

(c) Adopt appropriate rules and regulations to implement the requirements of this Title pursuant to Chapter 2-5 of the Nez Perce Tribal Code;

(d) Authorize disbursement of funds for operation, maintenance and repair of utility

services; and

(e) Contract with vendors and contractors to assure that safe and reliable environmental services are available to and utilized by the tribal community.

§8-2-5 Utility Board Membership

(a) The Utility Board shall be composed of five persons appointed by NPTEC from the general tribal community.

(b) NPTEC shall appoint the five members of the Utility Board from among tribal members living within the reservation boundaries. (amended by NPTEC 6/26/07)

§8-2-6 Term of Office

(a) Except for the initial Board membership, all Board members will serve two-year terms. Initial Board members shall serve terms as follows:

- Community Representative (Position 1) - 1 year
- Community Representative (Position 2) - 2 years
- Community Representative (Position 3) - 1 year
- Community Representative (Position 4) - 2 years
- Community Representative (Position 5) - 1 year

(b) Terms shall expire upon the swearing in of newly appointed Board members.

§8-2-7 Method of Appointment / Vacancies

(a) NPTEC shall annually appoint persons to fill any Utility Board vacancies. For all Board positions, NPTEC shall choose persons capable and willing to perform the duties of the Board.

(b) If a Board member resigns, dies, becomes incapacitated, or is found guilty of a felony or major crime in any court of law, NPTEC shall declare the Board position vacant. If any Board member misses two consecutive Utility Board meetings without a valid excuse, NPTEC, upon petition of the remaining Board, may declare the position vacant. All vacancies shall be filled as soon as possible in accordance with this Section.

(c) In the event that the number of unfilled Board vacancies prevents gathering of a quorum for purposes of conducting business, NPTEC shall act as the interim Utility Board until such time as the filling of the Board vacancies allows for a quorum.

§8-2-8 Board Officers

(a) Within ten days after the appointment of the initial Board members, there shall be an organizational meeting of the Utility Board to elect a Chair, Vice Chair, and a Secretary-Treasurer from among the Utility Board members. The Officers shall be elected annually thereafter, immediately following the appointment by NPTEC of the new Board members.

(b) 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 affairs; and perform all duties incidental to the office.

- (2) Vice-Chair - Shall perform all of the Chair's duties in in the absence of the Chair and shall assist the Chair as required in handling the Utility Board=s affairs.
- (3) Secretary-Treasurer - Shall keep or cause to be kept a complete and accurate record of all meetings and shall maintain all correspondence, notices and records of the Utility Board; shall be responsible for maintaining financial records of the Utility Department; shall report the Department's financial status at each regularly scheduled Utility Board meeting and shall present to the Board members for their action all requests for funds to meet the Department's financial obligations; shall prepare an annual financial statement for submission to NPTEC for General Council.

§8-2-9 Board Meetings

(a) The Utility Board shall meet when business demands and requires attention. Regular and special meetings shall be called by the Chair.

(b) Any two Board members may request the Chair, in writing, to schedule a special meeting of the Utility Board.

- (1) If the Chair fails to schedule a meeting within five days after receipt of a written request, any other two Board members may call such a meeting.

(c) Meetings shall be held in public places, and the Utility Board shall provide at least five (5) days public notice of Board meetings. Emergency meetings may be convened with less than five days' notice, in cases of emergency where loss of life, limb or property is threatened, or where the continued operation or fiscal capability of the Tribal public utilities may be in jeopardy.

(d) Meetings shall be open to members of the tribal community and to users of the Tribal Utilities. Meetings may be closed only to discuss personnel matters.

§8-2-10 Quorum and Voting

(a) 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.

(b) Each Board member, 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.

§8-2-11 Compensation of Board Members

(a) Board members shall serve without monetary compensation, except as determined by NPTEC.

(b) NPTEC shall establish prevailing government rates for mileage, per diem, or other costs, consistent with tribal policy, and shall direct the Finance Manager to approve such expenditures; provided that funds are available within the Utility Department budget approved by the Utility Board and ratified by NPTEC.

§8-2-12 Public Hearings

(a) The Utility Board shall convene public hearings to discuss changes in utility rates assessed to users of tribal public utilities.

(b) All users of tribal public utilities shall be afforded seven (7) days written notice of such hearings, and adequate notices shall be posted at appropriate places within the community.

CHAPTER 8-3 MANAGEMENT AND FINANCES

(adopted October 8, 2002)

§8-3-1 Management Personnel

(a) The Utility Board shall oversee the business and operating affairs of the Utility Department.

(b) Consistent with tribal personnel and financial policies, the Utility Board may provide for hiring and contracting personnel for the care and maintenance of the Tribal Utilities and shall establish compensation rates consistent with the Utility Department approved budget.

(c) The Utility Board may delegate only those management duties that are not specifically designated as duties to be performed exclusively by the Utility Board.

§8-3-2 Annual Budget

The Utility Board shall establish an annual budget enumerating the necessary costs of Utilities Department operation, maintenance, administration, personnel, liability and other insurance, replacement, and a reserve for major repairs and replacements.

§8-3-3 User Fee Schedule

(a) The annual budget shall be used to determine a fee schedule to be assessed to the users of Tribal Utilities.

(b) The budget and fee schedule shall be approved by the Utility Board and ratified by NPTEC.

§8-3-4 Records and Accounts

(a) 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.

(b) The records of accounts shall be made available to NPTEC.

§8-3-5 Exclusive Use of Funds

(a) The funds accrued by the Utility Board and kept on deposit are for the exclusive use of the Utility Department for the necessary operation, maintenance, and management of the Tribal Utilities.

(b) Utility Board funds, required for the operation, maintenance, and management of the Tribal Utilities or funds otherwise committed by contract or other legal obligation, 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 Board or Department by other Tribal Departments.

§8-3-6 Regulations, Policies, and Code Amendments

(a) Consistent with Chapter 2-5 of the Nez Perce Tribal Code, the Utility Board shall have the authority to adopt appropriate regulations and policies as needed to implement the provisions contained in this Title.

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

(c) The Utility Board shall recommend amendments to this Title that it believes necessary to promote the efficient, cost effective, and self-sufficient operation of the Utility Department and shall present such amendments to NPTEC for approval in a manner consistent with Chapter 1-4 of the Nez Perce Tribal Code.

§8-3-7 Grievances

(a) Any owner, contractor, or any applicant for utility services, who is aggrieved by any action of the Utility Department or the Utility Board, may file a grievance with the Utility Board. (amended 11/10/15)

(b) The Utility Board shall conduct a hearing to hear grievances and shall abide by the regulation set forth in this Title. Grievance hearings shall be conducted in a manner consistent with Chapter 2-5 of the Nez Perce Tribal Code.

(c) 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 by an aggrieved party only on the basis that the Department's grievance procedures were not followed, or that due process was denied.

§8-3-8 Sovereign Immunity

The Utility Department and the Utility Board are agencies of the Nez Perce Tribe, and thereby retains all rights of sovereign immunity of the Tribe. By providing services and entering into service agreements, the Board and the Department shall not waive the sovereign immunity of the Nez Perce Tribe or any of its officers, agents, attorneys or employees, or anyone else acting at the direction of and on behalf of the Nez Perce Tribe.

CHAPTER 8-4 UTILITY DEPARTMENT OPERATIONS (adopted October 8, 2002)

§8-4-1 Services Provided

The services provided by the Utility Department shall include domestic water and sewer

services.

§8-4-2 Water Services

(a) The Utility Board is responsible to provide safe, adequate water for a fee to those houses, businesses, and institutions connected to the mainlines of tribal community water systems.

(b) Responsibility for maintenance will include water sources, storage tanks, controls, mainlines, valves and hydrants, and service lines to the meter.

(c) The service line from the meter to the house and the interior house plumbing are the responsibility of the customer.

(d) The individual household water meters are owned by the Tribe and it is the responsibility of the Department to maintain the meters.

(e) Tribal community water systems shall be managed such that applicable federal and tribal regulatory requirements are satisfied.

§8-4-3 Sewer Services

(a) The Utility Board is responsible to provide sanitary disposal of domestic liquid waste for a fee to those houses, businesses, and institutions connected to the mainlines of tribal community sewerage systems.

(b) The Utility Board is responsible for the maintenance and repair of community sanitary sewage disposal systems and storm sewer systems.

(c) Responsibility for maintenance includes treatment facilities, pumping stations, mainlines, manholes, and service lines to the individual property lines.

(d) The service line from the property line to the house or the septic tank inlet to the house and interior house plumbing are the responsibility of the customer.

(e) Tribal sewage collection, treatment, and disposal systems shall be managed such that applicable tribal and federal regulations are satisfied.

(f) In the event that the Utility provides sewer services to entities that are not connected to tribal water systems, that entity will be required to sign a contract for sewage services outlining the Utility=s and owner=s responsibilities.

§8-4-4 *This section number was inadvertently omitted when Water and Sewer Utility Authority was drafted*

§8-4-5 Maintenance Schedule

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

(b) All utilities equipment shall be maintained according to the established maintenance schedule and quickly repaired when necessary so that disruption in service is

minimized.

§8-4-6 Emergency Notification

An emergency notification plan will be developed by the Utility Department and reviewed annually for notifying residents and visitors of:

- (a) Discontinued service for more than eight (8) hours;
- (b) Substandard conditions in water quality.
- (c) Any other conditions which may adversely affect the health of the community residents or visitors.

§8-4-7 Limits of Responsibility

(a) The Department shall not be responsible for, nor shall it maintain or repair, any private or domestic water or sewer system 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.

(b) 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.

§8-4-8 Right of Entry / Inspections

(a) The Department, or its authorized representative, is authorized to make limited, reasonable inspections, at reasonable times, of any grounds, building, or residence served by the Utility Department to the extent necessary to insure that customer utility fixtures, lines, and equipment are not being operated or constructed in a manner that would likely disrupt, interfere with, damage, or degrade utility services. (amended 11/10/15)

(b) 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.

(c) 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.

- (1) Where the permission to enter and inspect is unreasonably withheld, the Department may assess court costs and related expenses and add them to the affected customer's bill.

§8-4-9 Disruption of Service

(a) The Department may shut off water or sewer service, provided that advance notice has been given to affected customers.

(b) 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.

(c) The Department shall not be responsible for consequent damage as a result of lack of water or sewer during authorized disruptions of service.

§8-4-10 Permits

(a) No connection, re connection with, disconnections from, or other private use of any Department water or sewer system, appurtenance of other utility service, or facility shall be made without a written permit and inspection by the Utility Board. (amended 11/10/15)

(b) No construction of any private water or sewer system is authorized within the service area of the Utility Board without a written permit from and inspection by the Utility Board. (amended 11/10/15)

(c) The Utility Board may require such plans from the permit applicant as it determines are necessary to decide whether or not a permit should be issued.

(d) The Utility Board may engage in any inspections that it deems necessary to decide whether a permit should be issued. (amended 11/10/15)

§8-4-11 Water Shortage / Service Preference

(a) In cases of a water shortage proclaimed by the Utility Board, the Department shall regulate the amount of water any customer may be allocated.

(b) The Utility Board 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.

(c) Any customer violating a legal allocation may have his water service discontinued. Service shall be resumed only upon payment of the approved reconnection fee and any penalties.

§8-4-12 Unnecessary Waste of Water

(a) The Utility Board reserves the right to terminate customer's service when the customer has repeatedly, unduly wasted water.

(b) 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.

(c) Where such conditions have been observed, the Utility Board having been notified of the condition may terminate water to the premise if the condition is not corrected within 48 hours after receipt of the notice.

(d) Service shall be resumed only after correction of the condition causing wastage of water and payment by the customer of the approved reconnection fee, penalties and any other accounts in arrears to the Utility Board.

§8-4-13 Conservation of Water Resources

(a) The Department shall conduct operation, maintenance, and repair services in a manner that will maximize the conservation of natural, financial, and property resources.

(b) 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.

(c) 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.

§8-4-14 New Customer Services

(a) Any dwelling within the service area of the Utilities shall be eligible for services, provided all of the following conditions are met:

- (1) Facilities are adequate to meet additional load;
- (2) The new customer agrees to adhere to this Title; and
- (3) Approval by the Utility Board.

(b) New customers shall pay the cost of any required extensions, expansions, or upgrades necessary to make the new connection.

(c) The additional of a new customer shall not increase the monthly operations and maintenance charges to existing customers.

CHAPTER 8-5 CUSTOMER OBLIGATIONS (adopted October 8, 2002)

§8-5-1 Conditions for Payment / Service

As a condition for receiving utility services from the Utility Department, the customer agrees to comply with all provisions of this Title, and any regulations duly adopted by the Utility Board, as well as any other applicable codes or regulations, including being current in the payment of all fees, penalties, costs, damages, or other charges assessed by the Department.

§8-5-2 Maintenance / Repairs / Liability (amended 11/10/15)

(a) 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.

(b) The owner and/or contractor shall obtain a written permit from the Department in advance of major maintenance or repairs planned for water or sewer lines. "Owner" in this statute means owner of the relevant structure, not the owner of the land on which it is situated. (amended 11/10/15)

(c) The owner and/or contractor shall permit the Department to inspect the work for compliance with applicable regulations before and/or after repairs are made. (amended 11/10/15)

(d) The owner and/or contractor shall be liable for any damage to the Department's lines, equipment, or other property caused by the owner's and/or contractor's family, guests, tenants, agents, employees, contractors, licensees, or other persons under the customer's control or authority. The Department shall bill the owner and/or contractor for any damage caused under the owner's and/or contractor's control or authority. (amended 11/10/15)

§8-5-3 Customer Termination of Service / Abandonment

(a) A customer planning to vacate any grounds, building, or residence served by the Department shall notify the Department in writing one week prior to the date the customer plans to either vacate or terminate service, whichever is later.

(b) A customer who fails to give notice is responsible for all charges accrued up to one week after notice is received by the Department, or up until service is terminated, whichever comes first.

§8-5-4 Water Shortages

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

§8-5-5 Inspections (amended 11/10/15)

(a) The customer shall not unreasonably withhold permission for the Department to enter and inspect the Department's and customer fixtures, lines, and equipment when necessary to insure that they are operating or being constructed in a manner that would not likely disrupt or interfere with utility services. (amended 11/10/15)

(b) The customer shall be liable for any costs or related expenses caused by his unreasonable withholding of permission.

(c) The Utility Board shall inspect the site(s) and/or plan(s) for any permit requested for construction or repair under this statute. (amended 11/10/15)

§8-5-6 Permits (amended 11/10/15)

(a) The owner and/or contractor shall obtain a written permit from and inspection by the Utility Board prior to making any connection, re connection with, disconnection from, or other private use of any Department water or sewer system, appurtenance, or other utility service or facility.

(b) The owner and/or contractor shall obtain a written permit from and inspection by the Utility Board prior to constructing any private water or sewer system, or other private utility.

§8-5-7 Cross-Connections

(a) The owner and/or contractor shall not make a cross connection with the Tribal Public Water supply. (amended 11/10/15)

(1) A cross-connection is defined as any physical connection between the Tribal Public Water system and another piping system, either water or waste.

(b) Any individual source must be totally disconnected from the household plumbing prior to connection to the Tribal Public Water Supply.

(c) A Disconnection@ done solely by a valve shall not be allowed.

(d) In the event that an individual does not disconnect the cross-connection, the Utility Department may either take action to disconnect the cross-connection and charge the

individual for any costs associated with the disconnection or may obtain an order from the Nez Perce Tribal Court requiring disconnection of the cross-connection. (amended 11/10/15)

§8-5-8 Use of Sewer System

(a) The customer shall use the sewerage collection, treatment, and disposal system only for the disposal of normal household liquid waste including waste from toilet facilities, shower and bathing facilities, and kitchen facilities.

(b) The customer shall not dispose of any material into the sanitary sewer which may cause the collection lines or subsurface drain field to become blocked or excessively loaded with solids, including but not limited to garbage, disposable diapers, sanitary napkins, paper material other than toilet paper, cigarette waste, and cat litter.

(c) No customer shall dispose of any toxic, radioactive, or otherwise hazardous waste into any Utility Department or private sanitary or storm sewerage system. Toxic and hazardous waste include but are not limited to: oil, pesticides, gasoline, organic solvents, paint, poisons, and other manufactured chemical compounds.

(d) The Department may collect any costs associated with the repair of a water or sewer system, appurtenance, or other utility service or facility due to a violation of this section. In addition, the Department may assess a penalty for any such violation.

CHAPTER 8-6 FEE SCHEDULES AND BILLING (adopted October 8, 2002)

§8-6-1 Fee Schedule Establishment

(a) The schedule of fees for utility services shall be set annually by the Utility Board and approved by the NPTEC.

(b) The fee schedule shall be based on the estimated average annual costs for operation of all utility services. The fee schedule shall include a basic rate for all services, payment of which shall be required of each customer regardless of whether, or the extent to which, the customer uses any of the services and other fees, charges, penalties and assessments which the Utility Board is authorized to levy as provided under various sections of this Title.

(c) The fee schedule may be adjusted as needed to meet utility operating expenses.

§8-6-2 Public Hearing

(a) The Utility Board shall hold a public hearing whenever a new fee schedule is proposed for adoption.

(b) At least five (5) days in advance of the hearing, the proposed fee schedule shall be sent to each customer and shall be posted in appropriate places.

(c) Following the public hearing the Utility Board shall set a fee schedule, taking into consideration comments received at the hearing.

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

§8-6-3 Monthly Statement

(a) 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.

(b) Payments not received within ten (10) days after the established due date are considered past due. The Department shall issue a notice of payment past due to the customer, detailing the payment owed and the consequences for failure to pay. The notice shall be sent no later than the date the next billing is sent out.

§8-6-4 Delinquent Account

(a) If the payment past due is not paid within ten (10) days after the next regular monthly due date, the account shall be declared delinquent.

(b) The Department shall immediately notify the customer in writing once his account has been declared delinquent and list the sanctions that may be imposed without further notice.

- (1) Notice of delinquency shall be personally served to the residence of the delinquent customer, sent via certified mail, or such other means to provide proof of receipt by the customer.

§8-6-5 Advance Deposits

The Utility Board may require each new customer to pay an advance deposit equal in amount to the basic monthly rate fees for the first month of service prior to receiving services.

CHAPTER 8-7 ENFORCEMENT; PENALTIES; SANCTIONS (adopted October 8, 2002)

§8-7-1 Enforcement Responsibilities

(a) The Utility Board is authorized by NPTEC to collect established fees for service and to impose sanctions and penalties for non-payment.

(b) The Utility Board shall enforce its regulations, fee collections and provisions of this Title by imposing any or all penalties and sanctions as authorized in this Chapter and as approved by majority vote of the Utility Board. (amended by NPTEC 7/12/11)

§8-7-2 Penalty Schedule

- (a) 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 Title.

(b) The penalty schedule shall be reviewed for appropriateness annually by the Utility Board.

§8-7-3 Sanctions Authorized

Any and all of the following sanctions may be imposed by the Utility Board for failure of a customer, owner or contractor to comply with any provisions of this Title or with any duly adopted regulation of the Utility Board: (amended 11/10/15)

- (a) Termination of service(s);
- (b) Assessment of penalties based on a penalty schedule adopted by regulation of the Utility Board;
- (c) Assessment of late charges based on a schedule adopted by regulation of the Utility Board;
- (d) Assessment of damages resulting from the customer's non-compliance;
- (e) Any person or business violating any provisions of this statute shall become liable to the Utility Board for any expense, loss, or damage occasioned by reason of such violation; (amended 11/10/15)
- (f) Filing of a lien against the customer's property after the account is declared delinquent;
- (g) Enforcing a lien by seeking judgment, and satisfaction from the customer's property from a court of competent jurisdiction;
- (h) Filing suit for damages in a court of competent jurisdiction;
- (i) Referring violations that may involve criminal conduct to the tribal police or prosecutor.
- (j) The Utility Board may recover from the owner and/or contractor for costs of bringing a project up to regulations if the owner and/or contractor failed to complete the permitting and inspection procedures required by this statute. (amended 11/10/15)
- (k) The Utility Board has the authority to issue a stop work order against an owner and/or contractor who is not in compliance with this statute. (amended 11/10/15)
- (l) If an owner and/or contractor fails to comply with the permitting and inspection requirements of this statute, the Utility Board may apply for an injunction against the owner and/or contractor from the Nez Perce Tribal Court. (amended 11/10/15)

§8-7-4 Sanctions Guidelines

The Utility Board shall use the following guidelines when considering the appropriate sanctions to be imposed in any given case: (amended 11/10/15)

(a) Whether the sanction is required by this Title or other applicable law, or whether imposition is discretionary;

(b) The minimum sanction needed to effect compliance;

(c) The irreparable harm to the customer and/or family, owner or contractor if the sanction is imposed; (amended 11/10/15)

(d) The irreparable harm to operation of the Department, and to the Tribe, if the sanction is not imposed;

(e) The customer, owner or contractor's past record of compliance or non-compliance, or good faith efforts to achieve compliance; (amended 11/10/15)

(f) The customer, owner or contractor's statements or behavior indicating the likely success of a given sanction securing compliance; (amended 11/10/15)

(g) The irreparable harm to other persons or property if the sanction is not imposed;
and

(h) The effectiveness of similar sanctions in securing compliance in other cases.