



PUEBLO of JEMEZ

**PUEBLO OF JEMEZ TRIBAL COUNCIL
RESOLUTION NO. 2001-36**

**TO AUTHORIZE AND ADOPT THE PUEBLO OF JEMEZ UTILITY ORDINANCE TO
REGULATE DRINKING WATER, WASTEWATER AND SOLID WASTE**

At a duly called meeting of the Tribal Council of the Pueblo of Jemez, this resolution was passed:

Whereas, The Tribal Council has the responsibility to protect the health, security and general welfare of the Pueblo, of all individuals residing within and of its environmental resources; and

Whereas, The Pueblo wishes to operate cost-effective, efficient, uninterrupted and safe utility services which is compliant under the Safe Drinking Water Act and other relevant federal solid waste and environmental regulations; and

Whereas, The operation, maintenance and delivery of utility services is a costly affair, and which the Pueblo of Jemez, its membership and organizations must bear its entire financial burden; and

Whereas, The Tribal Council has established the Pueblo of Jemez Utility Board as an administrative body to oversee and direct the implementation of utility services within the Pueblo of Jemez; and

Whereas, The Utility Board has been activated and tasked with the development of By-Laws and Ordinances regulating the management of drinking water, wastewater and solid waste utility services; and

Whereas, It is the responsibility of the Tribal Council to adopt through Tribal Resolution ordinances for its general welfare and governance;

NOW, THEREFORE BE IT RESOLVED, that the Pueblo of Jemez Tribal Council hereby adopts this Jemez Utility Ordinance; and hereby authorizes and directs the Tribal Administration, Utility Board and Public Works Department for immediate implementation.

BE IT FURTHER RESOLVED, that the Pueblo of Jemez Tribal Council directs the Public Works Department and Pueblo of Jemez Finance Department to pursue utility fee collections as contained in said Utility Ordinance.

Office of the Governor

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CERTIFICATION

I, the undersigned, as Governor of the Pueblo of Jemez, Hereby Certify that the Jemez Tribal Council, at a duly called meeting that was convened with proper notice and was held on the 28th day of November, 2001, 11 members voting in favor, and 0 opposed.

Harold Arroyo
Attest

Vincent A. Toya
Vincent A. Toya, Governor

Jose E. Magdalen

Paul [unclear]

Frank Louetto

Jose L. Peas

Gregorio Sandoval

Candido Arriaga

Raymond [unclear]

Paul P. Chencin

J. Leonard Saretto

Jose A. Toledo

[unclear]

PUEBLO OF JEMEZ UTILITY ORDINANCE

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ORDINANCE NUMBER: _____

THE PUEBLO OF JEMEZ

UTILITIES MANAGEMENT ORDINANCE

ARTICLE I

GENERAL PROVISIONS

SECTION 1.01. TITLE AND DATE: This ordinance shall be titled The Pueblo of Jemez Utilities Management Ordinance. The ordinance shall become effective immediately upon adoption by resolution by the Pueblo of Jemez Tribal Council.

SECTION 1.02. PURPOSE: The purpose of The Pueblo of Jemez Utilities Management Ordinance is to define the policies, establish an organization and identify the necessary rules and regulations for: the operation, maintenance and management of the water, wastewater, and solid waste utilities located on the Pueblo of Jemez.

SECTION 1.03. POLICY: It shall be the policy of the Pueblo of Jemez to operate, maintain and manage the public utilities of the Pueblo of Jemez so that the community residents are provided with a high level of utility 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 Pueblo of Jemez that the operation, maintenance and management of the public utilities shall be carried out through an efficient program and in a financially responsible cost effective and self-sufficient manner.

SECTION 1.04. JURISDICTION: The authority to establish a Utilities Management Ordinance and to levy appropriate user fees to all residents and organizations operating on the Pueblo of Jemez is inherent in the powers of the Pueblo of Jemez and is outlined by Tribal Resolution #1999-31, "A Resolution Establishing the Pueblo of Jemez Utility Board and Appointing Utility Board Members."

ARTICLE II

DEFINITION OF TERMS

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

SECTION 2.02. APPURTENANCES: "Appurtenances" are the real and personal property owned by Public Works or the Tribe located on, near or under the roadways and streets, such as main water and sewer lines, fire hydrants, valves, meters, marker poles and manholes.

SECTION 2.03. CONTRACTOR: "Contractor" shall mean any individual, firm, contractor or organization who contracts with the Public Works Department to provide utility construction, repairs, design, inspection, reconstruction or operation.

SECTION 2.04. 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 utility services from Public Works.

SECTION 2.05. CUSTOMER LINES: "Customer lines" are the water and wastewater service lines that extend from the water and sewer main to the customer's residence or place of business. It is the customer's responsibility to maintain these lines.

SECTION 2.06. DIRECTOR: "Director" shall mean an individual hired by the Pueblo of Jemez to oversee and manage the operation of Public Works.

SECTION 2.07. DISTRIBUTION SYSTEM LINES: "Distribution system lines" are those drinking water lines maintained by Public Works by which drinking water utility services are provided to customers.

SECTION 2.08. DOMESTIC USE: "Domestic Use" includes use of water for purposes in the home: drinking water, food preparation, bathing, washing clothes and dishes, and watering trees and shrubs that are used for windbreak.

SECTION 2.09. METER: "Meter" is a device, owned by the Pueblo of Jemez, for measuring the amount of water utility services provided to a particular customer.

SECTION 2.10. OFF-RESERVATION: "Off-reservation" is any area located outside of the exterior boundaries of the Pueblo of Jemez.

SECTION 2.11. OPERATOR: "Operator" shall mean an individual hired by the Pueblo of Jemez to provide direct day to day preventive maintenance and operational service for the drinking water and wastewater utilities.

SECTION 2.12. PUBLIC WORKS DEPARTMENT: "Public Works Department" is a governmental department of the Pueblo of Jemez authorized to operate and maintain the utility services provided by the Pueblo of Jemez. For purposes of this ordinance, it will hereby referred to as Public Works.

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

SECTION 2.14. SEPTIC TANKS: "Septic Tanks" shall mean individual or community septic tanks and subsurface drain fields and associated appurtenances that collect, treat and dispose of wastewater generated by customers, which are maintained and operated by the Customer.

SECTION 2.15. SEWER MAINS: "Sewer mains" are those wastewater lines maintained by Public Works by which wastewater services are provided to customers.

SECTION 2.16. SHALL, MAY: "Shall" is mandatory; "may" is permissive.

SECTION 2.17. SOLID WASTE: "Solid waste" shall mean all degradable and non-degradable refuse that is generated through the course of normal living by the residents and organizations in the community. This does not include hazardous waste materials.

SECTION 2.18. TRIBAL COMMUNITY: "Tribal Community," for purposes of this ordinance, shall include, enrolled Tribal members, and other businesses and institutions served by Public Works.

SECTION 2.19. UTILITIES: "Utilities" are those basic services necessary for supporting residential and commercial development, including, but not limited to drinking water, wastewater, and solid waste.

SECTION 2.20. UTILITY BOARD: The "Utility Board" shall oversee the implementation of utility services provided by Public Works for the Pueblo of Jemez, as established by Tribal Resolution 1999-31, "A Resolution Establishing the Pueblo of Jemez Utility Board and Appointing Utility Board Members."

SECTION 2.21. VENDOR: "Vendor" is any individual, firm, contractor or organization who regularly supplies parts, equipment, supplies and services to Public Works used in the operation, maintenance and management of the utility services of the Pueblo of Jemez.

ARTICLE III

PUBLIC WORKS DEPARTMENT AND UTILITY BOARD

SECTION 3.01. ESTABLISHMENT OF PUBLIC WORKS DEPARTMENT: The Public Works Department was established by order of the Tribal Council in June of 2000. Public Works has the responsibility of operating and maintaining drinking water, wastewater and solid waste services directly or by contract.

SECTION 3.02. UTILITY BOARD: The Utility Board was established by Tribal Resolution 1999-31 to oversee and direct the implementation of utility services provided by Public Works.

SECTION 3.03. UTILITY BOARD - OPERATING ORGANIZATION: The Utility Board shall operate as a subordinate unit of the Pueblo of Jemez Tribal Council and is responsible to the Tribal Council for its actions. The terms of office, and operating procedures of the Utility Board shall be set forth in this ordinance or by Tribal Resolution.

SECTION 3.04. UTILITY BOARD - MEMBERSHIP: The Utility Board shall be composed of five persons appointed by the Tribal Council. The Board members will be persons selected from the Pueblo of Jemez Tribal Members who have experience in utility services or who have expressed interest in serving. Members of the Utility Board shall be known as Board Members.

SECTION 3.05. TERM OF OFFICE: Except for the initial Board membership, all Board Members will serve two-year terms, with the option of remaining longer. Initial Board Members shall serve terms as follows:

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

Terms shall expire at the end of the calendar year.

SECTION 3.06. UTILITY BOARD - METHOD OF APPOINTMENT: The Tribal Council shall annually appoint persons to fill any Utility Board vacancies. The Council shall advertise in the tribal newsletter soliciting interested persons for nomination. After receiving nominations, the Council shall appoint persons capable and willing to perform the duties of the Board.

SECTION 3.07. UTILITY BOARD VACANCIES: If a Board Member resigns or is unable to perform his/her duties, the Tribal Council shall declare the position vacant. If any Board Member misses two consecutive Utility Board meetings without a valid excuse, the Utility Board may declare the position vacant. All vacancies shall be filled within one month in accordance with this Section.

SECTION 3.08. OFFICERS: The initial Utility Board Members shall elect a Chair, Vice Chair and a Secretary from among the Utility Board Members. The Officers shall be elected every two years thereafter, immediately following the appointment by the Tribal Council of the new Board Members.

SECTION 3.09. 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 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.

SECTION 3.10. MEETINGS: The Utility Board shall meet when business demands and requires attention, but in no case less than once per month. Regular and special meetings shall be called by the Chair. Any two Board Members may request the Chair, in writing, to schedule a special meeting of the Utility Board. The Chair should schedule the meeting in a timely manner.

Meetings shall be held in public places. The Utility Board shall provide 5 days public notice of Board meetings and include notice in the Tribal newsletter. Emergency meetings may be convened if needed. All meetings shall be open to Tribal members.

SECTION 3.11. QUORUM AND VOTING: A minimum of four 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, 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.

SECTION 3.12. MEETING AGENDA: Regular meetings of the Utility Board shall be conducted according to the following agenda outline:

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

SECTION 3.13. COMPENSATION: Utility Board Members shall serve without monetary compensation, except as determined by the Tribal Council. The Council shall establish prevailing government rates for mileage, per diem, or other costs, consistent with tribal policy; provided that funds are available within the Public Works budget approved by the Utility Board and ratified by the Tribal Council.

ARTICLE IV

MANAGEMENT AND FINANCES

SECTION 4.01. MANAGEMENT PERSONNEL: Public Works shall manage the business and operating affairs of Public Works. Public Works may provide for hiring and contracting personnel for the care and maintenance of the Tribal Public Utilities (provided that hiring shall be in accordance with tribal personnel policies), and shall establish compensation rates consistent with the Public Works Department approved budget.

SECTION 4.02. ANNUAL BUDGET: The Utility Board in conjunction with Public Works shall establish an annual budget enumerating the necessary costs of utilities, including operation, maintenance, administration, personnel, liability and other insurance, and a reserve fund for major repairs and replacements.

SECTION 4.03. USER FEE SCHEDULE: The Utility Board in conjunction with Public Works shall establish a fee schedule to be assessed to the users of Utility Services. The fee schedule shall be approved by the Utility Board and ratified by the Tribal Council.

SECTION 4.04. COLLECTION: Public Works shall have the authority to collect any and all bills due to the Public Works Department including payroll deductions and deductions from vendor payments.

SECTION 4.05. FISCAL YEAR: The fiscal year for Public Works shall be the same as the fiscal year of the Tribal Council.

SECTION 4.06. DEPOSITORY: The depository of Public Works shall be tracked separately by the Finance Department, and will be provided to the Public Works Director on a monthly basis.

SECTION 4.07. INVESTMENTS: Funds on deposit in excess of immediate needs shall be invested in a commercial sweep account. These funds are transferred as needed to cover immediate needs. Withdrawals of investments require the approval of a representative of Public Works as well as the Finance Department. Withdrawals from accounts shall follow standard policies and procedures of the Pueblo of Jemez.

SECTION 4.08. DISBURSEMENTS AND RECEIPTS: Public Works shall determine the distribution of funds required for the operation,

maintenance and management of Public Works. Disbursements will be made by check upon presentation of invoices or vouchers. Disbursements shall be made by the appropriate members of the Finance Department. Cash receipts will be deposited intact, as to amount, in the depositor promptly. Receipts will be issued for all cash received and copies filed and retained for accounting.

SECTION 4.09. 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 Public Works. The separate accounting records for Public Works shall be maintained in an appropriate business like manner. The records of accounts shall be presented on a quarterly basis to the Tribal Council and copies will be made available to the Utility Board.

SECTION 4.10. EXCLUSIVE USE OF FUNDS: The funds accrued by the Finance Department and kept on deposit are for the exclusive use of Public Works for the necessary operation, maintenance, and management of the Tribal public utilities. Public Works 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 Board or Public Works by other Tribal Departments.

SECTION 4.11. AUDIT AND REPORTS: The accounts of the Finance Department will be audited annually under Government Accounting Standards Board, Section A-133. Annual, Quarterly and periodic reports will be submitted by the Finance Department to the Utility Board.

SECTION 4.12. BONDING: Employees of the Finance Department are insured appropriately and coverage is evaluated annually.

SECTION 4.13. INSURANCE: Fire and other insurance on property owned or used by Public Works or on property in which Public Works has an insurable interest shall be in amounts and type of coverage, specified by the Finance Department. Insurance may be part of the Tribal insurance policies, with the expenses thereof pro-rated to Public Works if so directed by the Tribal Council.

SECTION 4.14. PETTY CASH: A petty cash fund is authorized by the Finance Department to be established in the amount of \$250. This fund may be utilized for small purchases of Public Works, as necessary, when it is not feasible to pay by check on the

official depository. The fund may be reimbursed periodically from the official depository of the Finance Department in the amount of and upon the submittal of receipts, vouchers, and statements signed by the payees, of their proof of expenditure. Petty cash reimbursement vouchers shall be certified by the designated representative of Public Works.

SECTION 4.15. REGULATIONS AND POLICY: The Utility Board shall have the authority to adopt appropriate regulations and policy as needed to implement the provisions contained in this ordinance.

SECTION 4.16. REGULATION; POLICY SUSPENSION ALTERATION: No regulation duly adopted by the Utility Board may be suspended or altered by any person without prior written authorization of the Utility Board and ratified by the Tribal Council.

SECTION 4.17. AMENDMENTS: The Utility Board shall recommend amendments to this ordinance that it believes necessary to promote the efficient, cost effective and self-sufficient operation of Public Works, and shall present such amendments to the Tribal Council for approval.

SECTION 4.18. COMPLAINTS: Complaints may be presented verbally or in writing to any Public Works Staff member for resolution and action. Complaints that cannot be resolved within ten days should be referred to the Utility Board in writing. The Utility Board will resolve such complaints at the next regularly scheduled meeting of the Board. The Chairman may call a special meeting of the Members to resolve complaints as deemed necessary.

SECTION 4.19. NON-WAIVER OF SOVEREIGN IMMUNITY: Public Works is an agency of the Pueblo of Jemez, and thereby retains all rights of sovereign immunity of the Tribe. By providing services and entering into service agreements, Public Works shall not waive the sovereign immunity of the Pueblo of Jemez or any of its officers, agents, attorneys or employees, or any one else acting at the direction of and on behalf of the Pueblo of Jemez.

ARTICLE V

PUBLIC WORKS - OPERATION

SECTION 5.01. SERVICES PROVIDED: The services provided by Public Works shall include drinking water, wastewater and solid waste. Additional services may be provided upon approval by the Utility Board and ratification by the Tribal Council.

SECTION 5.02. WATER SERVICE: Public Works is responsible to provide safe, adequate water for a fee to those houses, businesses and institutions connected to the mainlines of the community water system. Responsibility for maintenance will include water sources, treatment facilities, storage tanks, controls, mainlines, valves and hydrants, and service lines to the main line. Public Works has the authority to remove any tree or shrub that causes the water lines to become plugged or damaged. The service line from the main line to the house and interior house plumbing are the responsibility of the customer. The individual household water meters are owned by Public Works and it is the responsibility of Public Works to maintain the meters. The tribal community water systems shall be managed such that the regulatory requirements of the Federal Safe Drinking Water Act, as established by the Environmental Protection Agency, are satisfied. Public Works shall comply with the technical specifications provided by the Indian Health Service: Section 4 - Water Transmission and Distribution Mains; and Section 5 - Water Service Lines.

SECTION 5.03. WASTEWATER SERVICE: Public Works is responsible to provide sanitary disposal of domestic liquid waste for a fee to those houses, businesses and institutions connected to the main lines of the community wastewater system. Furthermore, Public Works is responsible for the maintenance and repair of community sanitary sewage disposal systems. Responsibility for maintenance includes treatment facilities, pumping stations, main lines, manholes, and service lines to the main line. Public Works has the authority to remove any tree or shrub that causes the wastewater lines to become plugged or damaged. Tribal wastewater collection, treatment and disposal systems shall be managed such that applicable Federal regulations of the Clean Water Act are satisfied. Public Works shall comply with the technical specifications provided by the Indian Health Service: Section 6 - Sanitary Sewers; and Section 7 - Sewer Service Lines.

SECTION 5.04. ON-SITE SEPTIC TANKS: The homeowner is responsible for maintenance of individual on-site septic tanks, which includes pumping the septic tank at least annually. The septic tank service line and drain field or leach field are the responsibility of the homeowner. No unauthorized septic waste disposal is allowed.

Public Works is responsible for the maintenance and pumping of the septic tanks at the C-Store and the Visitor Center. Responsibility of Public Works will cover only such requested pumping. Public Works cannot guarantee the operation of improperly designed or constructed septic tank systems.

SECTION 5.05 SOLID WASTE SERVICE: Solid Waste collection and disposal service shall be provided by Public Works for a fee for the homes, businesses and institutions located in the Pueblo of Jemez. Public Works will provide this service directly or enter into a contract with a nearby solid waste collection contractor in order to provide this service to the community.

The transfer station does not accept hazardous waste, medical waste, or construction and demolition waste.

Customers, other tribal members, and contractors wishing to dispose of construction and demolition waste shall contact Public Works to make arrangements for disposal. Designated areas for disposal of construction and demolition waste are made only by Public Works.

SECTION 5.06. PLUMBING: Public Works may elect, as resources permit to perform certain plumbing repairs or new installations for a fee in those houses served by Pueblo of Jemez utility services.

SECTION 5.07. OTHER SERVICES: Public Works may agree to perform under contract with governmental, tribal, or private entity construction or operation and maintenance services.

SECTION 5.08. FUTURE SERVICES: At some future date the Utility Board may assume responsibility to provide electrical, gas, telephone, cable TV or other utility services.

SECTION 5.09. MAINTENANCE SCHEDULE: Public Works shall develop and follow a regular schedule of maintenance service for each water, wastewater and solid waste systems and components thereof.

SECTION 5.10. PERSONNEL: Public Works, in accordance with the Pueblo of Jemez Personnel Policies and Procedures and in conjunction with the Human Resources Department shall have the full authority to hire, evaluate and discipline or fire if necessary the personnel required to manage, operate and maintain the Public Utilities. The specific personnel policies of the Tribe shall be followed. Job descriptions for all employees will be developed and followed.

SECTION 5.11. EQUIPMENT: All utilities equipment shall be maintained according to the established maintenance schedule and quickly repaired when necessary so that disruptions in service are minimized.

Utility tools and equipment are not for personal use. Equipment shall not be loaned to other Tribal Departments. A record of tools and the individual to whom they were assigned shall be maintained.

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

SECTION 5.12. INVENTORY: An accurate inventory of tools, equipment, and supplies needed to operate and maintain the water, wastewater and solid waste facilities will be kept up to date. A reserve supply of repair parts and regularly used supplies will be maintained by Public Works. A listing shall be kept of local suppliers for repair parts, replacement equipment and expendable supplies.

SECTION 5.13. PUBLIC RELATIONS: Any person filing a complaint or seeking information shall be given assistance in a courteous manner. The Utility Board and Public Works shall keep customers notified about changes in fees, rates, transfer station hours of operation, water quality regulatory compliance, levels of service and any other information which may affect customers use of utilities services. Notices may be included in monthly billing statements or may be disseminated to the public through separate mailings, newsletters, tribal newspaper or posting throughout the community.

SECTION 5.14. EMERGENCY NOTIFICATION: An emergency notification plan will be developed by Public Works and reviewed annually for notifying residents and visitors of:

- A. Discontinued service for extended periods of time.

- 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.

SECTION 5.15. STAFF TRAINING: A training program for water and wastewater system personnel, Board members and Public Works staff shall be developed which will provide for upgrading of knowledge and skills in water utility operations, maintenance and management.

SECTION 5.16. LIMITS OF RESPONSIBILITY: Public Works shall not be responsible for, nor shall it maintain or repair, any private or domestic water or wastewater system, except by specific agreement establishing fair rates of compensation to Public Works, and that is approved and signed by the Utility Board and owner of such facilities. Public Works 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 wastewater lines or fixtures.

SECTION 5.17. RIGHT OF ENTRY - INSPECTIONS: Public Works, or its authorized representative, is hereby authorized to make limited, reasonable inspections, at reasonable times, of any grounds, building or residence served by the Public Works Department to the extent necessary to insure that customer utility fixtures, lines and equipment are not being operated in a manner that would likely disrupt or interfere with utility services. Except in cases of emergency where life, limb, or property are threatened, or in cases of immediate water shortages, Public Works 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, Public Works shall obtain a court order authorizing such entry and inspection. Where the permission to enter and inspect is unreasonably withheld, Public Works may assess court costs and related expenses and add them to the affected customer's bill.

SECTION 5.18. DISRUPTION OF SERVICE: Public Works may shut off water or wastewater service, or disrupt traffic on the public right-of-way to perform repairs or maintenance provided that practical advance notice has been given to affected customers. Provided, however, that in cases of emergencies where loss of life, limb or property is threatened, or in cases of immediate

water shortage, service may be disrupted without advance notice. Public Works shall not be responsible for consequent damage as a result of lack of water or wastewater during authorized disruptions of service. In any case of fraudulent representation on the part of the owner or occupant, of willful or unreasonable use of water, such owner or occupant will be responsible for reasonable damages.

Public Works shall not be liable for any associated damages or delay caused by the breaking or leaking of any pipe, valve, fixture or non-standard type component as a result of the lack of water or wastewater to or from any mains, services, hydrants, lines or reservoirs during authorized disruptions of service.

SECTION 5.19. NEW SERVICE: Public Works shall require any person requesting new utility service to complete an application and submit to Public Works before Public Works will make any new utility connections.

SECTION 5.20. RE-CONNECTION OR DISCONNECTION/TERMINATION OF SERVICE: Public Works shall require any customer requesting re-connection, disconnection, or termination of utility service to notify Public Works by completing and submitting an application for service change. A customer who fails to give notice is responsible for all charges accrued until notice is received.

SECTION 5.21. USE OF WATER BY CONTRACTORS: Contractors requesting use of water must notify Public Works and must use operating instructions provided by Public Works when hooking up to a fire hydrant.

SECTION 5.22. WATER SHORTAGE: Public Works has the authority to issue an Emergency Rationing Order in accordance with priorities set out in the emergency plan.

SECTION 5.23. UNNECESSARY WASTE OF WATER: Public Works reserves the right to terminate customer's service when the customer has repeatedly, unduly wasted water or violated an Emergency Rationing Order. Such undue waste is evidenced by the fact that hydrants, taps, hoses, toilets, urinals, faucets, baths and other fixtures are permitted to run continuously when not in productive use. Where such conditions have been observed, Public Works having been notified of the condition, may terminate water to the premise if the condition is not corrected within 24 hours after receipt of the notice. 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 Public Works.

SECTION 5.24. CONSERVATION OF RESOURCES: Public Works shall conduct operation, maintenance and repair services in a manner that will maximize the conservation of natural, financial, and property resources. Customers of Public Works shall be encouraged to conserve water resources and to limit water use as necessary to provide a comfortable, healthy and aesthetically pleasing life style. Public Works 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.

SECTION 5.25. CUSTOMER USE OF WATER: Drinking water shall be used for domestic purposes only and not agricultural purposes. Domestic uses include water for all things done at a home: drinking water, food preparation, bathing, washing clothes and dishes, flushing toilets, and watering trees and shrubs that are used for windbreaks.

SECTION 5.26. NEW CUSTOMER SERVICES: Any dwelling within the service area of the Utilities shall be eligible for services, provided that Public Works determines that facilities are adequate to meet additional load.

Customers requesting new services shall make an application with Public Works for approval. No approval will be granted without proof of payment for established hook-up fees. Upon approval, Public Works will notify the Finance Department to establish a new account. New customers must agree to adhere to this Ordinance, including payment of associated fees.

ARTICLE VI

CUSTOMER OBLIGATIONS

SECTION 6.01. CONDITIONS FOR SERVICE, PAYMENTS: As a condition for receiving utility services from Public Works, the customer agrees to comply with all provisions of this Ordinance, 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 Public Works.

SECTION 6.02. MAINTENANCE; REPAIRS; LIABILITY: Repairs to the water and sewer service lines from the main line to the house and interior house plumbing are the responsibility of the customer and must be made in compliance with applicable regulations, including the Technical Specification provided by the Indian Health Service: Section 4 - Water Transmission and Distribution Mains; Section 5 - Water Service Lines; Section 6 Sanitary Sewers; and Section 7 - Sewer Service Lines.

The customer shall submit a form as provided by Public Works, in advance of major maintenance or repairs planned for water or sewer service lines. The customer shall allow Public Works to inspect the work for to ensure that the work is in compliance with applicable standards and regulations.

The customer shall be liable for any damage to Public Works lines, equipment or other property caused by the customer, his family, guests, tenants, agents, employees, contractors, licensees or other persons under the customer's control or authority.

SECTION 6.03. WATER SHORTAGES: During water shortages declared by Public Works, the customer shall limit his use of water according to allocations established by Public Works.

SECTION 6.04. INSPECTIONS: Public Works shall be permitted at all reasonable hours to enter the premises or building of customers to inspect the fixtures, lines and equipment when necessary to insure that they are operating in an appropriate manner.

SECTION 6.05. NEW SERVICE: Any person requesting new utility service shall complete an application and submit to Public Works.

SECTION 6.06 RE-CONNECTION OR DISCONNECTION/TERMINATION OF SERVICE: A customer requesting re-connection, disconnection, or termination of utility service shall notify Public Works by completing and submitting an application for service change. A customer who fails to give notice is responsible for all charges accrued until notice is received.

SECTION 6.07. CROSS-CONNECTIONS: No physical connection shall be permitted between a Public Works water supply and any water supply source not regulated by Public Works, unless the public water supply system is protected by a backflow prevention device. Contractors and must use operating instructions provided by Public Works when hooking up to a fire hydrant.

There shall be no piping arrangement or connection by which an unsafe substance may enter a public water supply.

SECTION 6.08. USE OF WASTEWATER SYSTEM: The customer shall use the wastewater 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.

The customer shall not dispose of any material into the wastewater system which may cause the collection lines to become blocked or excessively loaded with solids, including but not limited to garbage, disposable diapers, sanitary napkins, paper material other than toilet paper.

SECTION 6.09. SOLID WASTE: There shall be no excessive accumulation of refuse, garbage or solid waste in the community or around individual homesites.

Customers shall contact Public Works before disposing of any construction or remodeling waste.

SECTION 6.10. TOXIC WASTE DISPOSAL: No customer shall dispose of any toxic, radioactive or otherwise hazardous waste into the sewer system or individual septic system. Toxic and hazardous waste include but are not limited to: oil, pesticides, gasoline, fertilizers, paint, paint thinner, poisons and other manufactured chemical compounds.

ARTICLE VII

FEE SCHEDULES AND BILLING

SECTION 7.01. FEE SCHEDULE ESTABLISHMENT: The schedule of fees for utility services shall be set annually by the Utility Board in conjunction with Public Works. The fee schedule shall be based on the estimated average annual costs for operation of all utility services including drinking water, wastewater and solid waste. The fee schedule shall include a basic rate for all services, payment of which shall be required of each customer regardless of whether, or not the customer uses any of the services.

Public Works is authorized to levy other fees, charges, penalties and assessments as provided under various sections of this Ordinance. The fee schedule may be adjusted as needed to meet utility operating expenses.

SECTION 7.02. PUBLIC HEARING: The Utility Board shall hold a public hearing whenever a new fee schedule is proposed for adoption. Seven 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.

SECTION 7.03. 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.

SECTION 7.04. BILLING RESPONSIBILITY: The Pueblo of Jemez Finance Department and/or Public Works is responsible for billing customers for Utility Services.

SECTION 7.05. CUSTOMER RECORDS: The Finance Department and Public Works will maintain a complete and up-to-date record of all customers served by those utility systems operated by the Pueblo of Jemez. Corrections, additions, and deletions will be made as soon as Public Works and Finance Department is informed of the change.

SECTION 7.06. MONTHLY STATEMENT: Each month the Finance Department and/or Public Works shall mail to all utility customers a statement detailing the following information:

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

SECTION 7.07. DUE DATE: The monthly date on which payment will be due shall be established by the Utility Board.

SECTION 7.08. PAYMENTS PAST DUE: Payments not received within 10 days after the established due date are considered past due. The Finance Department shall issue a notice of payment past due to the customer, detailing the payment owed and the consequences for failure to pay. The notice shall be sent no later than the date the next billing is sent out.

SECTION 7.09. 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.

SECTION 7.10. NOTICE OF DELINQUENCY: The Finance Department and/or Public Works 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.

SECTION 7.11. DEPOSITS: Public Works may require each new customer to pay a deposit as set by the Utility Board and ratified by Tribal Council. The deposits shall be retained by the Finance Department and/or Public Works no longer than one year. The deposits, with interest compounded at passbook rates, shall be credited to the individual customer's utility account balance at the end of the deposit period, providing that the customer's account is not delinquent and in arrears. Any remaining deposit funds will be returned to the customer.

SECTION 7.12. HOUSING AUTHORITY: In cases where the Housing Authority is responsible for the collection of utility fees with rental payment, the Housing Authority shall make a single monthly payment to the Finance Department for services received on a Tribal Member's behalf. A receipt shall be issued for this payment.

ARTICLE VIII

ENFORCEMENT; PENALTIES; SANCTIONS

SECTION 8.01. AUTHORITY AND ENFORCEMENT: Public Works in conjunction with the Finance Department is hereby authorized by the Tribal Council to collect established fees for service and to impose sanctions and penalties for non-payment.

Public Works in conjunction with the Finance Department shall enforce its regulations, fee collections and provisions of this ordinance by shutting off water service, of any and all violators and delinquent bill-payers or imposing other penalties and sanctions as authorized.

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

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

SECTION 8.04. SANCTIONS AUTHORIZED: The following sanctions may be imposed by Public Works in conjunction with the Finance Department for failure of the customer to comply with any provisions of this ordinance or with any duly adopted regulation of the Utility Board:

- (1) Termination of service(s);
- (2) Assessment of penalties based on a penalty schedule adopted by regulation of the Utility Board;
- (3) Assessment of late charges based on a schedule adopted by regulation of the Utility Board;
- (4) Assessment of damages resulting from the customer's non-compliance;
- (5) Filing of a lien against the customer's property after the account is declared delinquent;
- (6) Enforcing a lien by seeking judgment, and, satisfaction from the customer's property from a court of competent jurisdiction;
- (7) Filing suit for damages in a court of competent jurisdiction; and

- (8) Referring violations that may involve criminal conduct to the police or prosecutor.

SECTION 8.05. 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 ordinance 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 Public Works, 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.

ARTICLE IX

MISCELLANEOUS PROVISIONS

SECTION 9.01. VALIDITY, SEVERABILITY: If any section, clause, sentence or provision of this ordinance is found to be invalid, the remainder of the ordinance shall not be affected.

SECTION 9.02. AMENDMENTS: Proposed amendments to this ordinance may be brought before the Tribal Council by the Utility Board. The Tribal Council may approve or disapprove of such proposed amendments.

The Pueblo of Jemez Tribal Council has the power to amend this ordinance at any time.

SECTION 9.03 SUSPENSION OF ORDINANCE: No employee, officer, contractor or agent of the Pueblo of Jemez is authorized to suspend or alter any of the provisions of this ordinance without the consultation of the Utility Board and the approval of the Pueblo of Jemez Tribal Council.