

TABLED

Cherokee Council House

Cherokee, (NC)
FEB 06 2020

ORDINANCE NO. 129 (2020)

WHEREAS, Tribal Council passed Ordinance No. 2 (2019) containing laws essential for the accreditation of the Tribe's Public Health Department; and

WHEREAS, as part of the public health law initiative there are other chapters of the Tribal Code that require updating in order to ensure accuracy in cross-referencing, language use and to reflect changes that would support efficiencies in the current government structure; and

WHEREAS, these proposed changes are the result of the collaborative efforts of the tribal programs that would benefit from the changes proposed.

NOW THEREFORE BE IT ORDAINED in Tribal Council assembled, at which a quorum is present, that Cherokee Code Chapters 62 and 145 shall be amended as set forth in Exhibit A.

BE IT FURTHER ORDAINED that this ordinance shall be effective upon ratification by the Principal Chief and that all prior ordinances and resolutions that are inconsistent with this ordinance are rescinded.

Submitted by: Office of the Attorney General for the Division of Public Health and Human Services

EXHIBIT A

Chapter 62 - UTILITIES

ARTICLE I. - IN GENERAL

1 Sec. 62-1. - Tribal Water and Sewer Operations and Maintenance Program Utilities Commission.

2 (a) ~~Inasmuch as the~~ Water and Sewer Operations and Maintenance Program (Program)
3 within the Division of Operations (Division) Cherokee Water and Sewer Enterprise
4 furnishes public water and sewer systems and utility services, and the users of the public
5 systems shall be afforded a public comment period when any water and sewer rate rule is
6 adopted by the Division. periodic impartial review of the utility rates and charges. To carry
7 out this review the Tribal Utility Rate Commission is hereby created.

8 (b) ~~Membership shall consist of two business utility consumers and one residential utility~~
9 ~~consumer. Each member shall be appointed by the Tribal Council. Appointment shall be for~~
10 ~~three year terms, with terms to be staggered among the members. No member of the~~
11 ~~Commission shall be an elected Tribal official.~~

12 (c) The ~~Division~~Commission shall be charged with the duty of publishing rules that conform
13 with Chapter 150 in order to administer the laws and programs concerning all water and
14 sewer systems. The rules shall address the frequency and process for reviewing the utility
15 rates, connection charges and other fees charged for services by the utility, to determine the
16 equity of such charges based on the essential operating requirements for ensuring all water
17 and sewer systems conform to minimum standards of health and safety of the Cherokee
18 Water and Sewer Enterprise, together with comparison of similar rates and charges of other
19 comparable communities and utilities.

20 (d) ~~The Commission shall be charged with the duty of setting the utility rates, connection~~
21 ~~charges and other fees for the utility.~~

22 (e) ~~After setting rates, charges and fees, the Commission shall make a report to the Tribal~~
23 ~~Council for any adjustment or change which the Commission recommends to be made. Final~~
24 ~~authority for establishing or changing such rates, charges and fees shall be vested in the~~
25 ~~Tribal Council.~~

26 (f) ~~All expenses incurred by the Commission shall be reviewed and authorized by the Tribal~~
27 ~~Credit Committee and shall be paid by the Tribe.~~

28 (g) All private or institutional owners and possessory holders with buildings or facilities
29 designed for human use that are within the service area of any tribal public water or sewer
30 system ~~of the Cherokee Water and Sewer Enterprise at the time public notice is given that~~
31 ~~such services are available~~ shall be required to connect to the available system within one
32 year from the date of such notice, unless connection may be required sooner where the
33 Division Tribal or Indian Health Service authorities have has condemned individual water or
34 sewer sanitation systems for being unsafe.

35 (h) All private or institutional owners and possessory holders starting new construction after
36 the date of public notice of availability of services shall be required to connect to the
37 available system at the time of construction unless connection is not deemed feasible by the
38 Division Enterprise.

1 ~~(i) Questions of whether specific buildings or facilities can be feasibly served by either or~~
2 ~~both the Water and Sewer Systems of the Enterprise may be submitted to the Tribal Credit~~
3 ~~Committee. The Committee's determination on such questions shall be final.~~

4 (j) The ~~Tribal Community Services Committee~~ shall appropriate one-half of one percent of the
5 Tribal Levy, or an amount equal to 1/12 of the Levy, to be used exclusively for the operation
6 and furtherance of the ~~Tribal Cherokee public w~~Water and ~~s~~Sewer ~~systems~~Enterprise.

7 Sec. 62-2. - Disconnection of service.

8 (a) The ~~Program, Cherokee Water and Sewer Enterprise~~ shall be authorized to disconnect
9 services to any house or building when payment of service fees are not paid by the last day
10 of the month in which a statement is rendered.

11 (b) ~~Rules shall be adopted by the Division for the Program to provide for a procedure for prior~~
12 ~~written notice before services are disconnected and for appealing decisions for disconnection~~
13 ~~of services or other actions taken by the Division. These rules shall conform to Chapter 150.~~
14 ~~Prior to disconnecting either water or sewer service to any house or building the Cherokee~~
15 ~~Water and Sewer Enterprise shall notify the customer that such service shall be disconnected~~
16 ~~on a specific date unless payment for services is brought current prior to that date.~~

17 ~~(e) Prior to disconnecting either water or sewer service to any house or building, the Cherokee~~
18 ~~Water and Sewer Enterprise shall notify the customer that they may appeal to the credit~~
19 ~~committee to show cause why the service should not be disconnected.~~

20 ~~(d) In the event any customer, occupant, owner, tenant or other person, after either water or~~
21 ~~sewer service has been disconnected by the Cherokee Water and Sewer Enterprise, shall~~
22 ~~reconnect such service, or in any way cause the Any person that connects to the tribe's~~
23 ~~public water or sewer system including connections to fire hydrants service to be~~
24 ~~reconnected to their house or building, without a permit issued by the Division, authorizing~~
25 ~~the connection without having first paid in full for past services and fees, including any~~
26 ~~disconnection or reconnection fees, they shall be assessed a fine/civil penalty of \$5400.00,~~
27 ~~and service shall not be authorized/reconnected until such fine/penalty is paid.~~

28 ~~(e) The Cherokee Court of Indian Offenses or any successor Cherokee Court shall have~~
29 ~~jurisdiction to enforce this section against all persons who violate its provisions.~~

30 Sec. 62-3. - Fire hydrant use and fees.

31 (a) Access to water from fire hydrants for all uses other than uses by ~~authorized tribal~~
32 ~~personnel water department personnel of emergency services personnel authorized by the~~
33 ~~Tribal~~ must be ~~authorized by written permit requested~~ from the Water and Sewer ~~Operations~~
34 ~~and Maintenance Program based on rules adopted by the Division. Manager of the Cherokee~~
35 ~~Water and Sewer Tribal Enterprise, or other person authorized by the enterprise, prior to~~
36 ~~making access. The manager or other authorized person shall approve or disapprove access~~
37 ~~based on regulations developed and adopted by the Cherokee Water and Sewer Enterprise.~~
38 ~~Water accessed at a hydrant must be purchased using the rates established by the Division.~~
39 ~~expressed in subsection (b). Obtaining water from a hydrant or attempting to do so without a~~
40 ~~permit/permission of the manager or other authorized person is a violation of Tribal law.~~
41 ~~Penalties for violation include, but are not limited to, criminal prosecution, civil prosecution,~~
42 ~~revocation or suspension of Tribal permits and licenses.~~

~~(c) Access to, and purchase of, water from a hydrant is subject to scheduling by the manager or other authorized personnel of the water department. Access and purchase depend on the department's work schedule, water treatment plant production status, water storage tank levels, water system conditions and other factors that reasonably bear on the integrity of the Tribal water system and its ability to serve its other users.~~

(e) Access to, and purchase of, water from a hydrant is subject to scheduling by the manager or other authorized personnel of the water department. Access and purchase depend on the department's work schedule, water treatment plant production status, water storage tank levels, water system conditions and other factors that reasonably bear on the integrity of the Tribal water system and its ability to serve its other users.

Sec. 62-4. - Denial of service without notice.

(a) Service may be refused or discontinued without notice for any of the reasons listed below.

(1a) In the event of a condition determined by the Program tribal utility to be unsafe to public health hazardous.

(2b) In the event of customer use of equipment in such a manner as to adversely affect the tribal utility's equipment or the tribal utility's service to others.

(3e) In the event of tampering with the equipment furnished and owned by the Program tribal utility.

(4d) In the event of unauthorized use.

~~(e) For failure of the customer to fulfill his contractual obligations for service and/or facilities subject to regulation by the Commission.~~

(5f) For failure of the customer to permit the Program tribal utility reasonable access to its equipment.

Sec. 62-5. - Payment for water used where meter tampered with.

In any case where a service meter or service facility has been tampered with so as to interfere with accuracy of registration or indication, the Program tribal utility shall be entitled to payment for water used but not registered during a period not exceeding one year prior to the date of discovery of the tampering, unless the time of tampering can be shown, in which case the water not registered subsequent to such time shall be paid for.

Sec. 62-6. - Sealing meters.

Seals may be employed to prevent tampering.

Sec. 62-7. - Civil fine where meter tampered with.

(a) It shall be unlawful to tamper with a water meter.

(b) Violations of this section shall subject the offender to a civil penalty of \$250.00 and service shall not be reconnected until such penalty is paid.

(c) The Cherokee Tribal Court shall have jurisdiction to enforce this section against all persons who violate its provisions.

(d) All monetary fines recovered as a result of violations to this chapter shall be returned to the Water Department Water and Sewer Operations and Maintenance Program.

Secs. 62-8—62-10. - Reserved.

~~ARTICLE I A. - APPENDIX
CHEROKEE WATER & SEWER TRIBAL ENTERPRISE
RATE STRUCTURE FISCAL YEAR 2009~~

EASTERN BAND OF CHEROKEE INDIANS

P.O. BOX 547

CHEROKEE, NC 28719

Phone: (828) 497-5555

The Cherokee Water and Sewer Tribal Enterprise of the Eastern Band of Cherokee Indians (hereinafter called the "Tribe") represented by the Manager of the Cherokee Water and Sewer Tribal Enterprise (hereinafter called the "Water and Sewer Manager"), will furnish Water and/or Sewage services for eligible users, (anyone within the service area outlined on service map adopted by the Utilities Commission), including private individuals, Tribal projects, Bureau of Indian Affairs, and other private and federal consumers under the following conditions and terms:

WATER

NEW RATE SCHEDULE: If and when the Water and Sewer Manager determines the feasibility of water services to an applicant, water services will be furnished at the following monthly rate:

A. RESIDENTIAL RATES:

Flat Fee (1000 Gallons) (0—135 Cubic Feet) \$11.00

Rate Per Thousand/Gallons (135 Cubic Feet) 2.00

B. COMMERCIAL:

User Fee 15.00

Rate Per Thousand/Gallons (1—10,000 Gallons) (1—1351 Cubic Feet) 3.00

Rate Per Thousand/Gallons (10,001—20,000 Gallons) (1352—2703 Cubic Feet) 3.50

Rate Per Thousand/Gallons (20,001—100,000 Gallons) (2704—13514 Cubic Feet) 4.00

Rate Per Thousand/Gallons (>100,000 Gallons) (>13514 Cubic Feet) 5.00

C. OUT OF SERVICE AREA RESIDENTIAL:

Flat Fee (1000 Gallons) (0—135 Cubic Feet) 22.00

Rate Per Thousand/Gallons (135 Cubic Feet) 4.00

D. OUT OF SERVICE AREA COMMERCIAL:

User Fee 30.00

Rate Per Thousand/Gallons (1—10,000 Gallons) (1—1351 Cubic Feet) 6.00

Rate Per Thousand/Gallons (10,001—20,000 Gallons) (1352—2703 Cubic Feet) 7.00

Rate Per Thousand/Gallons (20,001—100,000 Gallons) (2704—13514 Cubic Feet) 8.00

Rate Per Thousand/Gallons (>100,000 Gallons) (>13514 Cubic Feet) 10.00

1 ~~E. LATE FEE \$7.15~~

2 WATER CONNECTION SCHEDULE:

3 NEW CONNECTIONS: The Water and Sewer Manager will furnish all labor, meter, pipe,
4 etc. for making water connections at the following charges:

RESIDENTIAL TAP FEES: (Out of Service Area)		
	5/8" and 3/4" Meter	\$1,000.00
	1-inch pipe connection and meter	1,400.00*
COMMERCIAL WATER TAP FEES: (Out of Service Area)		
	1" Meter	1,400.00
	2" Meter	1,600.00*
	4" Meter	2,000.00*
	6" Meter	3,200.00*
	* Plus labor and materials	
RESIDENTIAL TAP FEES: (In Service Area)		
	5/8" and 3/4" Meter	500.00
	1" Meter	700.00
COMMERCIAL WATER TAP FEES: (In Service Area)		
	1" Meter	700.00
	2" Meter	800.00*
	4" Meter	800.00*
	6" Meter	1,000.00*

~~*Plus labor and materials~~

~~**WATER TAPS OF (1) ONE INCH AND SMALLER NOT LOCATED WITH (10) TEN FEET OF CITY WATER LINE SHALL BE RESPONSIBLE FOR ADDITIONAL MATERIAL AND LABOR COSTS TO GET TO THE WATER METER LOCATION ON THE INDIVIDUAL'S PROPERTY.~~

~~ALL PIPES, VALVES, METERS, AND OTHER PARTS PROVIDED AND INSTALLED BY THE CHEROKEE WATER AND SEWER MANAGER SHALL REMAIN THE PROPERTY OF THE TRIBE. THE WATER CONNECTIONS FEES ARE NON-REFUNDABLE AND SHALL BE PAID IN ADVANCE BEFORE CONNECTIONS ARE MADE. THERE SHALL BE ONLY ONE METER INSTALLED PER WATER LINE CONNECTED TO THE MAIN, UNLESS SUCH LATERALS ARE THE PROPERTY OF THE TRIBE.~~

~~USE OF WATER: Water may be used for most purposes. The individual customer is strictly prohibited from the resale of water to others. The Water and Sewer Manager reserves the right at all times to terminate services or restrict the amount to be used when the sale of water would jeopardize water services to any school, hospital or other vital facility.~~

~~SEWER~~

~~NEW RATE SCHEDULE: If and when the Water and Sewer Manager determines the feasibility of sewage service to an applicant, sewage service will be furnished at the following monthly rate.~~

~~A. RESIDENTIAL RATE:~~

~~Flat rate sewer only (no meter) \$14.00~~

~~Flat Fee (1000 Gallons) (0—135 Cubic Feet) 11.00~~

~~Rate Per Thousand/Gallons (135 Cubic Feet) 2.00~~

~~B. COMMERCIAL:~~

~~User Fee 15.00~~

~~Rate Per Thousand/Gallons (1—10,000 Gallons) (1—1351 Cubic Feet) 3.00~~

~~Rate Per Thousand/Gallons (10,001—20,000 Gallons) (1352—2703 Cubic Feet) 3.50~~

~~Rate Per Thousand/Gallons (20,001—100,000 Gallons) (2704—13514 Cubic Feet) 4.00~~

~~Rate Per Thousand/Gallons (>100,000 Gallons) (>13514 Cubic Feet) 5.00~~

~~C. OUT OF SERVICE AREA RESIDENTIAL:~~

~~Flat rate sewer only (no meter) 28.00~~

~~Flat Fee (1000 Gallons) (0—135 Cubic Feet) 22.00~~

~~Rate Per Thousand/Gallons (135 Cubic Feet) 4.00~~

1 ~~D. OUT OF SERVICE AREA COMMERCIAL:~~

2 User Fee 30.00

3 Rate Per Thousand/Gallons (1—10,000 Gallons) (1—1351 Cubic Feet) 6.00

4 Rate Per Thousand/Gallons (10,001—20,000 Gallons) (1352—2703 Cubic Feet) 7.00

5 Rate Per Thousand/Gallons (20,001—100,000 Gallons) (2704—13514 Cubic Feet) 8.00

6 Rate Per Thousand/Gallons (>100,000 Gallons) (>13514 Cubic Feet) 10.00

7 ~~E. LATE FEE \$7.15~~

8 ~~SEWER CONNECTION SCHEDULE:~~

9 ~~NEW CONNECTIONS: The Water and Sewer Manager will furnish all labor, materials, and~~
10 ~~manhole, etc. for making sewer connections of grade and size approval by the Water and Sewer~~
11 ~~Manager, at the following charges:~~

12 ~~IN SERVICE SEWER TAP FEES:~~

4" Tap	\$—500.00
6" Tap	—600.00
8" Tap	—1,000.00

14 ~~RESIDENTIAL OUT OF SERVICE SEWER TAP FEES:~~

4" Tap	\$1,000.00
6" Tap	—1,200.00
8" Tap	—2,000.00

16 ~~COMMERCIAL OUT OF SERVICE SEWER TAP FEES:~~

17 ~~The fee amount will be \$5,000.00 plus labor and materials.~~

18 ~~The sewer connection fees are NON-REFUNDABLE AND SHALL BE PAID IN ADVANCE before~~
19 ~~connections are made. All connections to the Sewage Main will be made by the Water and Sewer~~
20 ~~Department by a proper tapping procedure. The sewage collection system must not be exposed to~~
21 ~~ground water and, therefore, connections must be leak proof.~~

22 ~~SEWER SERVICE RESTRICTIONS: The sewage collection shall not be used for drainage of any~~
23 ~~type other than disposal of normal domestic wastes. The connections of field drainage systems, even~~
24 ~~through drainage systems and other drainage systems to the Mains, is strictly prohibited. Usage is~~
25 ~~restricted to sanitation purposes only.~~

1 Discharge of Industrial type waste will not be permitted unless this is amenable to adequate
2 treatment by the system treatment facilities and the Water Sewer Department Executives must approve it.
3 The customer will be required to provide preliminary treatment prior to discharge to the Sewer System.

4 DEPOSITS AND RECONNECTION FEE:

5 The following are additions to the rate structure that protect the Utility from costs incurred if
6 customers default on payment. The water deposit will be returned to the customer, or applied to the bill, at
7 close of the account.

8 Deposits: All customers are required to pay a \$75.00 deposit for the in-service area and a
9 \$125.00 deposit for out-of-service area. The deposit will be returned to the customer or applied
10 to the bill at the close of the account.

11 Reconnection: Existing water/sewer services are subject to a fee to activate or reactivate an
12 account for a customer. New accounts to an existing hookup will pay the reconnection fee to
13 activate the account. Accounts disconnected for non-payment or at the customer's request will
14 be subject to the reconnect fee to bring the account active. The in-service activation fee is \$65
15 and the out-of-service area activation fee is \$75. Fees are to be paid prior to activation/turn on
16 of services. New taps to water/sewer are subject to the new tap fee schedule. If the meter is cut
17 off per customer request, a minimum monthly charge will continue to be due.

18 Miscellaneous: Public Utilities under PL-121 will be responsible for the initial installation of the
19 water meter, sewer tap and any inspection fees related to water and sewer service for residents
20 eligible for PL-121 projects with Public Utilities. Public Utilities will not be responsible for
21 payment of the \$75.00 deposit. This is always the responsibility of the customer.

22 MONTHLY STATEMENTS:

23 Regular monthly statement for water-sewage services rendered each month will be submitted to the
24 customer between the first and the fifteenth of the following month. SUCH STATEMENTS WILL BE DUE
25 AND PAYABLE TO THE WATER AND SEWER DEPARTMENT at the Tribal Finance Office ON OR
26 BEFORE THE END OF THE MONTH IN WHICH STATEMENT IS RENDERED.

27 IN CASE PAYMENT IS NOT MADE IN FULL, BY THE LAST DAY OF THE MONTH IN WHICH
28 STATEMENT IS RENDERED, THE WATER AND SEWER MANAGER (EFFECTIVE SEPTEMBER 27
29 1988) WILL ASSESS A LATE FEE OF \$7.15 AND IF PAYMENT IS NOT RECEIVED, IN FULL, BY TEN
30 WORKING DAYS THEREAFTER HE WILL DISCONNECT OR TURN OFF THE WATER SUPPLY
31 WITHOUT FURTHER NOTICE.

32 CONTINUITY AND GUARANTEE OF SERVICE:

33 The Water and Sewer manager will exercise reasonable care in the maintenance and operation of
34 the systems, BUT DOES NOT GUARANTEE THAT SERVICES WILL BE CONSTANT. INTERRUPTION
35 OF SERVICES CAUSED BY FIRES, STORMS, FLOODS, ACCIDENTS, BREAKDOWNS, OR OTHER
36 CAUSES SHALL NOT RENDER THE TRIBE LIABLE FOR DAMAGES.

37 SERVICE CONNECTION LIMITATIONS:

38 The location(s) of water and sewer connections to the Water and Sewer system will be at the
39 discretion of the Water and Sewer Manager. The water meter will be set as close to the main as possible.
40 The water outlet will consist of a connection to the main water meter and a connecting pipe between the
41 main and the meter. Any easements, right of ways, or permits required shall be executed and properly
42 filed prior to any installation. The consumer shall furnish and install all necessary sewer pipes from his
43 residence or establishment to the sewer main. The consumer agrees that all water and sewage service
44 lines installed by him shall be installed in accordance with the sanitary code of the state of North Carolina.
45 The Water and Sewer Manager must approve all installations.

46 MAINTENANCE AND REPAIR OF WATER SEWAGE SERVICE LINE:

1 ~~TRIBAL RESPONSIBILITY FOR MAINTENANCE TO MAINS AND LINES ENDS AT OUTSIDE OF~~
2 ~~THE METER AND THE SEWER INLET AT THE MAIN. THE CONSUMER WILL MAINTAIN THE WATER~~
3 ~~PIPING FROM THE METER TO HIS HOUSE OR ESTABLISHMENT, ALSO, THE SEWER LINE TO HIS~~
4 ~~RESIDENCE OR ESTABLISHMENT FROM THE POINT OF CONNECTION TO THE SEWER MAIN~~
5 ~~SHALL BE MAINTAINED IN GOOD, SAFE, OPERATING CONDITION AT HIS OWN EXPENSE. THE~~
6 ~~WATER AND SEWER MANAGER ASSUMES NO RESPONSIBILITY FOR LOSS OF WATER OR~~
7 ~~WATER DAMAGES CAUSED BY FAULTY LINES OR EQUIPMENT BEYOND TRIBAL OWNED~~
8 ~~CONNECTION POINTS.~~

9 ~~MEASUREMENTS OF WATER AND SEWAGE: Water used by the consumer will be measured~~
10 ~~through a water meter by the amount of water used in cubic feet. The quantity of water measured to a~~
11 ~~consumer will be used as a measure of the quantity of sewage on which monthly statement will be~~
12 ~~computed. An authorized representative of the Tribe will make meter readings used to compute the~~
13 ~~service charge for water and sewer. The Water and Sewer Manager will promptly replace meters in~~
14 ~~service found to be defective. When a defective meter is found, the user will be billed for quantities of~~
15 ~~water and sewage based on the amount used the preceding month. Adjustments will be made on the~~
16 ~~billing the month following that in which repairs are made by taking the average of the quantity metered~~
17 ~~during the month preceding and the month following that in which repairs or corrections are made.~~

18 ~~GENERAL: Except for areas beyond the tribally owned sewer lines, and for temporary construction~~
19 ~~purposes, no water connection will be made to a private residence or establishment unless a satisfactory~~
20 ~~sewer connection is made to tribally owned Sewer System. The consumer will not permit heavy grease,~~
21 ~~oil, toxic materials, metal scraps, stones, and cloth, or other materials to enter the sewage system that~~
22 ~~would damage or hinder normal operations of the plant.~~

23 ~~THE LOCATIONS OF METERS AND CONNECTIONS TO TRIBALLY OWNED MAINS AND LINES~~
24 ~~WILL BE AT THE DISCRETION OF THE WATER AND SEWER MANAGER. The regulations specified~~
25 ~~herein shall not be considered to be complete, but only principal guide lines and it is understood that the~~
26 ~~ordinances and resolutions of the Tribal Council now in force affecting water and sewer services or new~~
27 ~~resolutions implemented or any amendments thereof from time to time shall be binding and all decisions~~
28 ~~of the Cherokee Water and Sewer Tribal Enterprise shall be final as authorized by Public Utilities~~
29 ~~Commission and the Tribal Council.~~

30 ~~CHEROKEE WATER & SEWER TRIBAL ENTERPRISE~~

31 ~~Eastern Band of Cherokee Indians~~
32 ~~P.O. Box 547~~
33 ~~CHEROKEE, N.C. 28719~~
34 ~~(828) 497-5555~~

35 ~~SECTION A~~

36 ~~APPLICATION FOR SERVICE:~~

37 ~~I, _____ (Print Name) _____, have read the published "Regulations and Schedules" of the Cherokee Water &~~
38 ~~Sewer Tribal Enterprise and here to make application for _____ (Indicate Service) _____ connection(s) for my~~
39 ~~establishment known as _____ (Name) _____ (Location) _____. Water requirements will necessitate~~
40 ~~(Pipe Size) _____ connection. Services will be needed _____.~~

41 ~~I understand and agree to abide by all terms of the "Regulations and Schedules," and any Subsequent~~
42 ~~amendments that may be published.~~

Signed: _____	Signed: _____
	_____ (Applicant) (Date)

	Address: _____
	Phone: _____

Office Use:

2 -
3 _____

Rate Schedule Route Code: _____	Route Code: _____
Acct: _____	Service Address: _____
Prior Meter reading: _____	Meter Serial #: _____
Last Meter reading: _____	Water & Sewer: _____
Date read: _____	Water only _____ Sewer only _____
Remarks: _____	

4

EXHIBIT A

Chapter 145 - WASTEWATER DISCHARGE

ARTICLE I. - IN GENERAL

1 Sec. 145-1. - Purpose.

2 This wastewater discharge chapter is designed to provide uniform requirements for discharge into
3 the Eastern Band of Cherokee Indians' wastewater collection system and treatment system.

4 Sec. 145-2. - Definitions.

5 For the purpose of this chapter, the following terms shall have the following meanings:

- 6 (a) *Approving Authority* shall mean the Secretary of the Division of Operations, Tribal Council of the
7 Eastern Band of Cherokee Indians.
- 8 (b) *Building sewer* shall mean a sewer conveying wastewater from the premises of a user to a Tribal
9 sewer.
- 10 (c) *Beneficial uses* shall mean uses of the waters of the state that may be protected against quality
11 degradation including domestic, municipal, agricultural and industrial supply, power, generation,
12 recreation, aesthetic enjoyment, navigation and the preservation and enhancement of fish, wildlife
13 and other aquatic resource or reserves, and other uses, both tangible and intangible as specified by
14 federal or state law.
- 15 (d) *Biochemical oxygen demand (BOD)* shall mean the empirical test run in accordance with latest
16 edition of "Standard Methods for Analysis of Water and Wastewater," published by American Public
17 Health Association and Water Pollution Control Federation or "Methods for the Analysis of Water and
18 Wastes," published by EPA to determine the relative oxygen requirements of wastewaters effluents
19 and polluted water. BOD is a measure of the oxygen required to oxidize the organic matter in a
20 sample, through the action of microorganisms in that sample.
- 21 (e) *Chemical oxygen demand (COD)* shall mean the quantity of oxygen used in the chemical oxidation
22 or decomposition of organic substance in a sample.
- 23 ~~(f) *County* shall mean the County of Swain, North Carolina, or any authorized officials acting on behalf~~
24 ~~of the Tribe.~~
- 25 (f) *Compatible pollutant* shall mean pollutants such as BOD, TSS, pH, oil and grease, Ammonia
26 Nitrogen (NH₃-N) and fecal coliform bacteria, plus any additional pollutants identified in the Tribe's
27 National Pollutant Discharge Elimination System (NPDES) permit, or any pollutants the Tribe's
28 treatment works was designed to treat. Such pollutants shall be amenable to the Tribe's biological
29 waste treatment process; shall not cause the Tribe to use additional chemicals, extra personnel or
30 cause undue wear or operating expenses; shall not cause the Tribe's wastewater treatment plant to
31 exceed effluent limitation as set forth in the NPDES permit.
- 32 (g) *Department* shall mean the Water and Sewer Operations and Maintenance Program within the
33 Department of Infrastructure and Public Facilities within the Division of Operations.
- 34
- 35 (h) *Division* shall mean the Division of Operations within the Executive Branch of the Eastern Band of
36 Cherokee Indians.
- 37 (i) *Domestic wastes* shall mean the liquid wastes from bathrooms, toilet rooms, home kitchens and
38 home laundries.
- 39 (j) *EPA* shall mean the federal agency named the Environmental Protection Agency.
- 40 (k) *Excessive radiation dose* shall mean a dose of radiation in excess of the maximum permissible
41 dose. "Maximum permissible dose" shall mean a dose of radiation to any part of the body, internal
42 and external, or both, that, in the light of current knowledge, is not expected to cause appreciable

1 bodily injury to a person at any time during his lifetime. Application of this section will conform to all
2 federal and other regulations concerning the use of radioactive materials.

3 (l) *Fats, oils and greases (FOG)* shall mean any one or a combination of minerals, vegetable or animal
4 fats, shortening or other such oily matter which are organic polar compounds derived from animal
5 and/or plant sources that contain multiple carbon chain triglyceride molecules.

6 (m) *Federal Act* shall mean Public Law 92-500, the Federal Water Pollution Control Act, as amended.

7 (n) *Food service establishment* shall mean any commercial facility discharging kitchen or food preparation
8 wastewater, including, but not limited to, the following: restaurants, motels, hotels, cafeterias,
9 hospitals, schools, bars, delicatessen, meat cutting operations, bakeries and any other
10 establishments which in the option of the Manager of Water and Sewer Operations would require a
11 grease trap by virtue of its operations.

12 (o) *Garbage* shall mean solid wastes from the domestic end and commercial preparation, cooking and
13 dispensing of food, and from the handling, storage and sale of produce.

14 (p) *Grease containment device (grease trap/interceptor)* shall mean a device utilized to remove fats, oils,
15 and greases from the wastewater stream of a food service establishment.

16 ~~(g) *Tribal Council* shall mean the Tribal Council of the Eastern Band of Cherokee Indians.~~

17 ~~(h) *Tribal sewer* shall mean a sewer owned and operated by the Eastern Band of Cherokee Indians,~~
18 ~~tributary to a treatment facility operated by the Tribe.~~

19 ~~(i) *Town* shall mean the Town of Cherokee.~~

20 ~~(j) *Principal Chief* shall mean the Principal Chief of the Eastern Band of Cherokee Indians.~~

21 ~~(k) *Compatible pollutant* shall mean pollutants such as BOD, TSS, pH, oil and grease, Ammonia~~
22 ~~Nitrogen (NH₃-N) and fecal coliform bacteria, plus any additional pollutants identified in the Tribe's~~
23 ~~National Pollutant Discharge Elimination System (NPDES) permit, or any pollutants the Tribe's~~
24 ~~treatment works was designed to treat. Such pollutants shall be amenable to the Tribe's biological~~
25 ~~waste treatment process; shall not cause the Tribe to use additional chemicals, extra personnel or~~
26 ~~cause undue wear or operating expenses; shall not cause the Tribe's wastewater treatment plant to~~
27 ~~exceed effluent limitation as set forth in the NPDES permit.~~

28 ~~(l) *Domestic wastes* shall mean the liquid wastes from bathrooms, toilet rooms, home kitchens and~~
29 ~~home laundries.~~

30 ~~(m) *EPA* shall mean the federal agency named the Environmental Protection Agency.~~

31 ~~(n) *Excessive radiation dose* shall mean a dose of radiation in excess of the maximum permissible~~
32 ~~dose. "Maximum permissible dose" shall mean a dose of radiation to any part of the body, internal~~
33 ~~and external, or both, that, in the light of current knowledge, is not expected to cause appreciable~~
34 ~~bodily injury to a person at any time during his lifetime. Application of this section will conform to all~~
35 ~~federal and other regulations concerning the use of radioactive materials.~~

36 ~~(o) *Federal Act* shall mean Public Law 92-500, the Federal Water Pollution Control Act, as amended.~~

37 ~~(p) *Garbage* shall mean solid wastes from the domestic end and commercial preparation, cooking and~~
38 ~~dispensing of food, and from the handling, storage and sale of produce.~~

39 ~~(q) *Fats, oils and greases (FOG)* shall mean any one or a combination of minerals, vegetable or animal~~
40 ~~fats, shortening or other such oily matter which are organic polar compounds derived from animal~~
41 ~~and/or plant sources that contain multiple carbon chain triglyceride molecules.~~

42 ~~(qf) *Holding tank waste* shall mean any waste from holding tanks such as vessels, chemical toilets,~~
43 ~~campers, trailers, septic tanks and vacuum pump tank trucks.~~

44 ~~(rs) *Incompatible pollutant* shall mean any pollutant which is not a "compatible pollutant," as defined in~~
45 ~~this section.~~

~~1 (u) User charge system shall mean the system developed by EPA that establishes a method for the grant received by the Eastern Band of Cherokee Indians to recover the costs incurred during planning and construction of a treatment works. User charge is the charge that users are required to pay for the right to discharge into the sewage system.~~
2 industrial processes and operations, as distinguished from domestic wastes.

3 (su) *Industrial wastes* shall mean liquid or water-carried wastes from institutional, commercial and
4 industrial processes and operations, as distinguished from domestic wastes.

5 (tv) *Industrial waste surcharge* shall mean a charge placed on all users who discharge wastewater
6 having characteristics in excess of the limits set by this chapter on compatible pollutants.

7 (uw) *Mass emission rate* shall mean the weight of material discharged to the Tribal sewer system during
8 a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day
9 of a particular constituent or combination of constituents.

10 (vx) *pH* shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of
11 solution.

12 (wy) *Pollution* shall mean an alteration of the quality of the waters of the state by waste to a degree
13 which unreasonably affects such waters for beneficial use or affects the facilities which serve such
14 beneficial uses. Pollution may include contamination.

15 (xz) *Premises* shall mean a parcel of real estate or portion thereof including any improvements thereon
16 which is determined by the town to be a single user for purposes of receiving, using and paying for
17 service.

18 (y) Principal Chief shall mean the Principal Chief of the Eastern Band of Cherokee Indians.

19 (z) Secretary shall mean the Secretary of the Division of Operations or his or her authorized
20 representative.

21 (aa) *Significant industrial user* shall mean an industry that will contribute greater than five percent of the
22 design flow or designated pollutant loading to the Tribe's sewer system or Eastern Band of Cherokee
23 Indian's treatment works.

24 (bb) *Storm drain* or *storm sewer* shall mean a sewer which carries storm water or surface water, but
25 not sewage or industrial wastes.

26 (cc) *Total suspended solids (TSS)* shall mean the measure of the solids that either float on the surface
27 or are held in suspension in wastes and which are removable from the liquid by laboratory filtering.

28 (dd) *Treatment work or plant* shall mean any device and systems used in the storage, treatment,
29 recycling, and reclamation of municipal wastewater or industrial wastes of a liquid nature, including
30 interceptor sewers, outfall sewers, wastewater collection systems, pumping, power and other
31 equipment and appurtenances, extensions, improvements, remodeling, additions or alterations
32 thereof; elements essential to provide a reliable recycled supply such as standby treatment units and
33 clear well storage facilities, and any work, including site acquisition of the land, that will be an integral
34 part of the treatment process or is used for ultimate disposal of residues resulting from such
35 treatment; or any other method or system for preventing, abating, reducing, storing, treating,
36 separating, or disposing of municipal wastes, including stormwater runoff, or industrial and sanitary
37 sewer systems.

38 (ee) Tribal Council shall mean the Tribal Council of the Eastern Band of Cherokee Indians.

39 (ff) Tribal sewer shall mean a sewer owned and operated by the Eastern Band of Cherokee Indians,
40 tributary to a treatment facility operated by the Tribe.

41 (gg) User charge system shall mean the system developed by EPA that establishes a method for the
42 grant received by the Eastern Band of Cherokee Indians to recover the costs incurred during
43 planning and construction of a treatment works. User charge is the charge that users are required to
44 pay for the right to discharge into the sewage system.

45 (hhee) *Waste* shall mean and include sewage and all other waste substances, liquid, solid, gaseous or
46 radioactive, associated with human habitation, or of human or animal origin, or from any producing,
47 manufacturing, or processing operation of whatever nature prior to, and for purposes of disposal.

1 (iiff) Wastewater shall mean wastes and water, whether treated or untreated discharged into a Tribal
2 sewer.

3 (iigg) Wastewater constituents and characteristics shall mean the individual chemical, physical,
4 bacteriological and radiological parameters, including volume and flow rate and such other
5 parameters that serve to define, classify or measure the contents, quality and strength of
6 wastewater.

7 ~~(kkhh) Grease containment device (grease trap/interceptor) shall mean a device utilized to remove fats,
8 oils, and greases from the wastewater stream of a food service establishment.~~

9 ~~(llii) Food service establishment shall mean any commercial facility discharging kitchen or food
10 preparation wastewater, including, but not limited to, the following: restaurants, motels, hotels,
11 cafeterias, hospitals, schools, bars, delicatessen, meat cutting operations, bakeries and any other
12 establishments which in the option of the Manager of Water and Sewer Operations would require a
13 grease trap by virtue of its operations.~~

14 Other terms used in this chapter, but not defined hereinabove, shall have the meanings set forth in
15 the latest edition of "Standard Methods for Examination of Water and Wastewater," published by the
16 American Public Health Association (APHA), the American Waterworks Association (AWWA) and the
17 Water Pollution Control Federation (WPCF). Unless otherwise expressly stated in this chapter, waste
18 constituents and characteristics shall be measured by methods set forth in the latest edition of "Standard
19 Methods for the Examination of Water and Wastewater," and/or "Methods of Chemical Analysis of Water
20 and Wastes," published by the Environmental Protection Agency (EPA).

21 ARTICLE II. - SEWER USE

Sec. 145-3. - Use of public sewers required.

- (a) It shall be unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon public or private property within Cherokee Indian Reservation, or in any area under the jurisdiction of the Eastern Band of Cherokee Indians, any human or animal excrement, garbage or other objectionable wastes.
- (b) It shall be unlawful to discharge to any natural outlet within the Cherokee Indian Reservation, or in any area under the jurisdiction of the Eastern Band of Cherokee Indians, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.
- (c) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.
- (d) The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the Reservation and abutting any street, alley or right-of-way, and unincorporated areas served by contract or agreement in which there is now located or may in the future be located a public sanitary sewer of the Eastern Band of Cherokee Indians, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 90 days after date of official notice to do so; provided that said public sewer is within 200 feet of the property line and can be reached by gravity flow.

Sec. 145-4. - Alteration of system requires permit.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the Tribe.

Sec. 145-5. - Costs to be borne by owner.

All costs and expenses incident to the connection of the building sewer or the owner's property shall be borne by the owner. The owner shall indemnify the Tribe of any loss or damage that may be directly or

indirectly occasioned by the connection of the building sewer. Any connection into the public sewer shall be made by the Tribe, for which the owner shall pay the Tribe a standard sewer tap fee as set by the [Department Committee](#), copy of said schedule to be kept on file ~~within~~ the Cherokee Water and Sewer [Operations and Maintenance Program Enterprise](#).

Sec. 145-6. - Independent sewer for each building; exception.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building lot through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

Sec. 145-7. - Old building sewers.

No old sewers will be excepted. This requirement may be waived by the approving authority after the condition of the sewer has been thoroughly inspected by the same.

Sec. 145-8. - Minimum standards of sewers.

The building sewer shall, in all cases, meet the minimum standards of the North Carolina Plumbing and Building Codes and [rules adopted by the Division of Operations which shall include federal OSHA requirements](#). ~~be installed in accordance with all applicable OSHA requirements~~. Joints shall be watertight. Any part of the building sewer that is located within ten feet of a water service shall be constructed of ferrous metal pipe with joints equivalent to water main standards. Ductile iron with mechanical joints may be required by the Tribe where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be of ductile iron or cast iron soil, except that nonmetallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the Tribe.

Sec. 145-9. - Size and slope of sewer.

The size and slope of the building sewer shall be subject to the approval of the [DivisionTribe](#), but in no event shall the diameter be less than four inches. The slope of each four-inch pipe shall not be less than one-eighth inch per foot.

Sec. 145-10. - Grades for sewers.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any loadbearing wall, which might thereby be weakened. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in the direction shall be made only with properly curved pipes and fittings.

Sec. 145-11. - Building drains.

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

Sec. 145-12. - Excavation and backfill.

All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the [DivisionTribe](#). Backfill shall not be performed until the work has been inspected by the [DivisionOffice of Environmental Health, IHS](#).

Sec. 145-13. - Angle of connection.

The connection of the building sewer into the public sewer shall be made at an angle of about 45 degrees. A 45-degree well may be used to make such connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be at the same or at a higher elevation than the invert of the public sewer. A smooth, neat joint shall be made, and the connection made secure and watertight by encasement in concrete. Special fittings may be used for the connection only when approved by the [Division/Tribe](#).

Sec. 145-14. - Notice to Tribe.

The applicant for the building sewer permit shall notify the [Division/Tribe](#) when the building sewer is ready for inspection and connection to the public sewer.

Sec. 145-15. - Private sewage disposal.

- (a) Where a public sanitary sewer is not available under the provisions of section 5-2003, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section and any rules adopted by the Division for the Department.
- (b) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the authority of Secretary of the Division of Operations under rules adopted by the Division, Office of Environmental Health, IHS. The application for such permit shall be made on a form furnished by the [Division/IHS](#), which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the [Office of Environmental Health, IHS](#).
- (c) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the [Divisionsanitarian. Rules adopted by the Division shall set forth the inspection standards and processes in order to administer this section.](#) ~~He~~ The Division shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the [Divisionsanitarian](#) when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the [sanitarian Division](#).
- (d) The type, capacities, location and layout of a private sewage disposal system shall comply with all rules and standards adopted by recommendations of the Division, the North Carolina Department of Natural Resources and Community Development, Division of Environmental Management. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 12,000 square feet. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.
- (e) At such times as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 145-3, a direct connection shall be made to the public sewer in compliance with this chapter at the first malfunction of the private system; and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.
- (f) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the [Tribetown](#).
- ~~(g) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Indian Health Service.~~

Sec. 145-16. - Prohibitions on discharges.

No person shall discharge wastes to a Tribal sanitary sewer which cause, threaten to cause, or are capable of causing either alone or by interaction with other substances:

- (a) A fire or explosion;

- (b) Obstruction of flow or injury to the collection or treatment works;
- (c) Danger to life or safety of personnel;
- (d) A strong offensive odor that inhibits the effective maintenance or operation of the treatment works;
- (e) Air pollution by the release of toxic or malodorous gases or noxious gas-producing substances;
- (f) Interference with the treatment process;
- (g) The Tribe's effluent or any other product of the treatment process, residues, sludge or scums, to be unsuitable for the reclamation and reuse or to interfere with the reclamation process;
- (h) A condition unacceptable to any public agency having regulatory jurisdiction over the final discharge of the Tribal treatment works;
- ~~(i) Conditions at or near the Tribe's treatment works which violate any statute or any lawful rule, regulation or ordinance of any state or federal agency having jurisdiction over the Tribe;~~
- (ij) The Tribe's treatment works to be hydraulically overloaded or cause physical damage or injury to collection system or treatment works;
- (jk) The Tribe's Cherokee Indian Reservation collection system to be hydraulically overloaded or cause damage to the system.

Sec. 145-17. - Prohibition of storm drainage and groundwater.

Stormwater, groundwater, rain water, street drainage, subsurface roof or yard drainage shall not be discharged through direct or indirect connection to a Tribal sewer.

Sec. 145-18. - Prohibition of unpolluted water.

Unpolluted water, included by way of illusion, but not limited to cooling water, process water or blow-down water from cooling towers or evaporative coolers, shall not be discharged through direct or indirect connection to a Tribal sewer unless a permit is issued by the Division Eastern Band of Cherokee Indians. Unpolluted water can be discharged to the storm drain system.

Sec. 145-19. - Limitations on radioactive wastes.

No person shall discharge or cause to be discharged any radioactive waste into a Tribal sewer except:

- (a) When the person is authorized to use radioactive materials by the Tribe's Division of Agriculture and Natural Resources, Environmental Protection Agency or other government agency empowered to regulate the use of radioactive materials; and
- (b) When the waste is discharged in strict conformity with the current North Carolina Radiation Control and Atomic Energy Commission (AEC) regulations, hereby adopted by the Tribe and any amendments thereto, and recommendations for safe disposal; and
- (c) When the person is in compliance with all lawful rules and regulations of all the applicable regulatory agencies having jurisdiction; and
- ~~(d) When several users are discharging radioactive wastes or materials to the public sewer, they shall, upon notification, cooperate in limiting the release of material and shall file with the Eastern Band of Cherokee Indians a statement of their agreed prorated discharges.~~

If this is not done within a reasonable time after notification, sewer use may be discontinued by the [DivisionTribe](#).

Sec. 145-20. - Limitations on the use of garbage grinders.

- (a) Waste from garbage shredders and grinders shall not be acceptable for discharge into a Tribal sewer except: Residential wastes generated in preparation of food normally consumed on the premises.
- (b) Such grinders must shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the Tribe or Tribal sewer. Garbage grinders shall not be used for grinding plastic, paper products, inert materials, or garden refuse.

Sec. 145-21. - Limitations on point of discharge.

No person shall discharge any substances directly into a manhole or other opening in a Tribal sewer other than through an approved building sewer, unless he has been issued a permit by the [Division Eastern Band of Cherokee Indians](#). If a permit is used for such direct discharge, the user shall pay the applicable charges and fees and shall meet such other conditions necessary to properly treat this discharge as required by the [rules adopted by the Division Eastern Band of Cherokee Indians](#).

Sec. 145-22. - Holding tank wastes.

- (a) No person shall discharge any holding tank waste, including by definition, but not limited to, pumping from septic tanks into a Tribal sewer unless he has been issued a permit by the [Division Eastern Band of Cherokee Indians](#). Unless otherwise allowed by the [DivisionTribe](#) under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. This permit will state the specific location of discharge, the time and day the discharge is to occur, the volume of the discharge and the wastewater constituents and characteristics. If a permit is granted for discharge of such waste into a Tribal sewer, the user shall pay the applicable charges and fees and shall meet such other conditions necessary to properly treat this discharge as required by the [Division Eastern Band of Cherokee Indians](#). An exception to the above is that no permit will be required for discharge of domestic wastes from recreational motor home holding tanks, provided that such discharges are made into a Tribal approved facility designed to receive such wastes.
- (b) Monitoring facilities for holding type wastes such as those described in section 145-22(a) shall be provided by the user when in the judgment of the approving authority they are deemed necessary for monitoring purposes.

Sec. 145-23. - Limitations on wastewater strength.

- (a) In order that the biological treatment process is not subjected to unacceptable levels of toxic wastes and so that the process can function properly to meet [tribalstate](#) and federal standards, it shall be unlawful for any person to discharge into the Tribal wastewater collection system, waters (as measured by any sample collected by the Tribe of OE), containing in excess of:

(1) Constituents:

Constituent	Code	Maximum permissible concentration
Aluminum	Al	5.0 mg/l

Arsenic	As	0.5 mg/l
Barium	Ba	0.5 mg/l
Boron	B	0.5 mg/l
Cadmium	Cd	0.5 mg/l
Cobalt	Co	0.5 mg/l
Copper	Cu	0.5 mg/l
Cyanide	cN	0.1 mg/l
Iron	Fe	35.0 mg/l
Lead	Pb	0.5 mg/l
Manganese	MN	0.5 mg/l
Mercury	Hg	0.5 mg/l
Nickel	No	0.5 mg/l
Silver	Ag	0.5 mg/l
Total Chromium	Cr	0.5 mg/l
Vanadium	V	0.5 mg/l
Zinc	Zn	0.5 mg/l
Chloroform	CHC13	1.0 mg/l
Selenium	Se	0.5 mg/l
Sulfate	S04	500 mg/l
Sulfide	S	2.0 mg/l

Free Acidity		0
Alkalinity	The Tribe may require alkalinity addition up to 7.5 times the NH3-N concentration of the discharge in question.	

Except in cases where one or more of the above constituents are found in the drinking water supply. In such cases, the limits shall be amounts listed plus the amounts found in drinking water. The amount of constituents in the drinking water supply shall be determined on samples caught at the particular industry during a normal operating day. The sample will be caught within the plant at a well used tap after running the tap a suitable length of time to remove water that has been standing in the lines. (15 mm minimum).

- (2) Having an ammonia nitrogen content of more than 40 mg/l.
- (3) Having a five-day BOD of more than 1,000 mg/l.
- (4) Having a TSS content of more than 1,000 mg/l.
- (5) Having a COD of more than 2,500 mg/l.
- (6) Having a pH lower than 6.5.
- (7) Having a pH higher than 9.0.
- (8) Containing more than 100 mg/l (total) of oil and grease on animal or vegetable and of mineral or petroleum origin.
- (9) Containing in excess of 0.02 mg/l total identifiable Chlorinated Hydrocarbons.
- (10) Containing 1.0 mg/phenolic compounds which cannot be removed by the Tribal treatment process.
- (11) Containing any toxic substances or poisonous substances in sufficient quantities to interfere with the biological processes used at the Tribal treatment works.
- (12) Containing strong iron pickling wastes or concentrated plating solutions unless pretreated in such a way as to comply with all other limitations of section 145-23.
- (13) Containing any solid or viscous substance including, but not being limited to: ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, bones, feathers, slurry, lime residues, waxes, asphalt, hair, tar, plastics, wood, paunch manure, butcher's offal, animal viscera, lime or any solid or viscous substances being capable of obstruction of any kind in either the collection system or at any point in the treatment plant. Also any waste resulting from processes involving textiles, fabrics, wool or other processes containing inert fibrous materials shall undergo evaluation by the [DivisionCounty](#). Some of these processes have been shown to be detrimental to the treatment of waste at the existing waste plant, the evaluation procedure will be concerned with residual fiberfe within the treatment plant and its discharges. Any process determined by the [DivisionTribe](#) to be creating adverse conditions within the treatment plant by the collection of fibrous or inert materials in its basins, clarifiers or discharges, shall not be allowed to continue disposing of its waste into the sanitary sewer collection system of the [DivisionTribe](#), but shall dispose of its waste by alternative means.

- (14) Containing any liquid waste or other such substance that contains dyes or other color of such character and quantity as to prevent removal by biological processes employed at the treatment plant.
 - (15) Containing any liquid or other substance that after normal treatment require excessive amounts of chlorine for pathogenic disinfection. This excess chlorine demand exerted by such waste shall be determined by comparing the chlorine demand of said waste to obtain a free residual of 0.5 mg/l to 15 ppm, which shall be considered to be the maximum use rate for domestic waste to obtain the same residual.
 - (16) Of the industrial variety with such a volume that the peak hourly flow rate exceeds 200 percent of the average daily flow rate of the industry. In such cases where a peak hourly flow of more than 200 percent is discharged, the Tribe may require the discharger to provide holding facilities of sufficient capacity so as to discharge into the collection system at an assigned rate over a specified period of time. Industrial dischargers which discharge hydraulic volumes equal to or greater than 15 percent of the treatment works design capacity, may be required to provide flow equalization facilities designed in accordance with the current edition of EPA's "Process Manual for Upgrading Existing Wastewater Treatment Plants."
- (b) Users in industrial categories subject to effluent guidelines issued under section 304(b) of the Federal [Safe Drinking Water](#) Act which are discharging incompatible pollutants to publicly owned treatment works, are required to adopt best practicable control technology currently available, as defined by the administrator pursuant to section 304(b) of the Act. Where the Eastern Band of Cherokee Indians treatment works was designed to and does achieve substantial removal of pollutants other than the four pollutants listed in the definition for compatible pollutants in section 145-2, BOD, TSS, pH and fecal coliform bacteria, the Approving Authority may not require the user to achieve best practicable control technology currently available, since this would lead to an uneconomical duplication of treatment facilities. While the term "substantial removal" is not subject to precise definition, it generally contemplates removal in the order of 80 percent or greater; minor incidental removals in the order of ten to 30 percent are not considered substantial. For some industrial categories it may be necessary to define pretreatment guidelines from problems that may arise as a result of the discharge into the Tribal sewer system. However, any adjustments required for particular industrial categories should be considered in connection with the Tribal requirements rather than in the national pretreatment standard. And in no case shall any user be allowed to exceed the limits stated in section 2-21(a).
- (1) Limitations on wastewater strength in this chapter may be supplemented with more stringent limitations pursuant to section 145-28 [and the rules adopted by the Division](#).
 - (2) If the Tribe determines that the limitations in section 145-23 may not be sufficient to enable the Tribal treatment works to comply with water quality control standards or effluent limitations specified in the Tribe's National Pollutant Discharge Elimination System (NPDES) permit, or if National Pretreatment Guidelines issued by EPA in the future exhibit lower values than those listed in section 145-23, the Tribe may require additional compliance by reissuance of permits outlined in section 145-28.

Sec. 145-24. - Disposal of unacceptable waste.

Waste not permitted to be discharged into the Tribal sewer must be transported to an ~~an~~-state-approved disposal site.

Sec. 145-25. - Special provisions concerning discharges to public sanitary sewers.

If any waters or wastes (discharged or proposed to be discharged to the public sewers) contain the substances or possess the characteristics enumerated in article II, and which in the judgment of the Approving Authority, may have a deleterious effect upon the wastewater treatment works, processes,

equipment or receiving waters, or which create a hazard to life, or constitute a public nuisance, the Approving Authority may reject the wastes.

The [TribeDivision](#) may discontinue water service or sewer service, or both, to any user who violates article II when, in the judgment of the Approving Authority, such action is necessary to protect the wastewater treatment works, processes, equipment or receiving waters from injury or damage, or if necessary to protect life or health. Such action shall be in accordance with the rules adopted by the Division consistent with C.C. Chapter 150.

ARTICLE III. - WASTEWATER VOLUME DETERMINATION

Sec. 145-26. - Metered water supply.

When charges and fees are based upon the water usage, such charges and fees shall be applied against the total amount of water used from all sources, public and/or private, determined by means of the user and approved by the [DivisionTribe](#), adding private sources volume to the metered water consumption.

When unpolluted water is prohibited as per section 145-18 of this chapter, charges and fees will be applied only against the total wastewater discharged to the Tribal sanitary sewer. In such case, volume of wastewater shall be determined by a flow measuring and totalizing device purchased, installed and maintained by the user. The location and type of the devices must be approved by the Approving Authority.

ARTICLE IV. - DISCHARGE REPORT, WASTEWATER DISCHARGE PERMITS AND ADMINISTRATION

Sec. 145-27. - Discharge reports.

The [DivisionTribe](#) may require that any person discharging or proposing to discharge wastewater of the industrial variety into a Tribal sewer file a periodic discharge report. The discharge report may include, but not be limited to, nature of process, volume, rates of flow, mass emission rate, production quantities, hours of operation, number and classification of employees or other information which relates to the generation of waste including wastewater discharge. Such reports may also include the chemical constituents and quantity of liquid or gaseous materials stored on site even though they are not normally discharged. Two copies of the report shall be provided to the [DivisionEastern Band of Cherokee Indians](#) to allow one copy to be forwarded to the [Division's Department of Public Infrastructure and Facilities and the wWater and Ssewer Operations and Maintenance Programdepartment](#). In addition to discharge reports, the [TribeDivision](#) may require information in the form of wastewater discharge permit applications and self-monitoring reports.

Sec. 145-28. - Wastewater discharge permits.

- (a) *Mandatory permit.* Each discharger of industrial wastewaters, if not connected to a Tribal sewer, must obtain a wastewater discharge permit before connecting to or discharging into a Tribal sewer. Each currently connecting industry must obtain a wastewater discharge permit within 90 days after the effective date of this chapter (April 8, 1986).
- (b) *Optional permits.* The [DivisionTribe](#) may issue a wastewater discharge permit to any user upon application, in accordance with the terms of this section in the following category: any user showing wastewater containing no incompatible waste and whose compatible waste strength is less than the normal range for domestic wastes because of pretreatment, process changes or other reasons.
- (c) *Permit applications.* Users seeking a wastewater discharge permit shall complete and file with the [Divisionwater and sewer department](#), an application in the form prescribed by the [Division Eastern Band of Cherokee Indians](#), and accompanied by the applicable fees. The application shall be filed with two copies more than the number required by the [DivisionEastern Band of Cherokee Indians](#). A separate check payable to the Tribe shall accompany the application in payment of the applicable

fees. ~~The Director of Water and Sewer will submit the permit application to the Tribe, along with recommendations from the Water and Sewer Department and Indian Health Service.~~ The applicant may be required to submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address and Standard Industrial Classification number of applicant.
 - (2) Volume of wastewater to be discharged.
 - (3) Wastewater constituents and characteristics including, but not limited to, those mentioned in section 145-23, as determined by a laboratory approved by the Tribe. The Tribe will make this determination available to the industry for a fee.
 - (4) Time and duration of discharge.
 - (5) Average and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any.
 - (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location and elevation.
 - (7) Description of activities, facilities and plant processes on the premises including all materials, processes and types of materials which are or could be discharged.
 - (8) Each product produced by type, amount and rate of production.
 - (9) Number and type of employees, and hours of work.
 - (10) Any other information as may be reasonably deemed by the Approving Authority to be necessary to evaluate the permit application.
- (d) *Permit conditions.* ~~Permits issued by the Tribe shall not be in force within the Reservation limits of jurisdiction until countersigned by the Principal Chief.~~ Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other ordinances, regulations, charges and fees established by tribal law or rules and regulations adopted by the Division to administer the laws in this Chapter, the Eastern Band of Cherokee Indians. The conditions of wastewater discharge permits shall be uniformly enforced by the Rates Commission Division in accordance with this chapter and rules adopted by the Division, ~~and applicable state and federal regulations.~~ Permits may contain the following:
- (1) The unit charge or schedule of charges and fees for the wastewaters to be discharged into a Tribal sewer.
 - (2) The average and maximum wastewater constituents and characteristics.
 - (3) Limits on rate and time of discharge or requirements for flow regulations and equalization.
 - (4) Requirements for installation of inspection and sampling facilities.
 - (5) Pretreatment requirements.
 - (6) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling number, types and standards for tests and reporting schedule.
 - (7) Requirements for maintaining plant records relating to wastewater discharges as specified by the Division Eastern Band of Cherokee Indians.
 - (8) Mean and maximum mass emission rates, or other appropriate limits when incompatible pollutants (as defined by section 145-2) are proposed or present in the user's wastewater discharge.
 - (9) Other conditions as may be reasonably deemed appropriate by the Division Eastern Band of Cherokee Indians to ensure compliance with this chapter.
 - (10) Where the Division Eastern Band of Cherokee Indians has records of previous monitors of wastes of existing industries, this information will be used to determine frequency and methods of sampling, number, type and standards for tests, reports and charges will be set accordingly

and included in the permit conditions. Also, where pollutants are discharged which can be accepted but are not surcharged and costs of treatment can be determined, these charges will also be included in the permit.

- (e) *Duration of permits.* Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period of less than one year or may be stated to expire on a specific date. If the user is notified by the [DivisionTribe](#), 30 days prior to the expiration of the permit, the permit shall be extended one additional year. The terms and conditions of the permit may be subject to modification and change by the [Division Eastern Band of Cherokee Indians](#) during the life of the permit as limitations or requirements, as identified in section 145-23, are modified and changed. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- (f) *Transfer of a permit.* Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or another or changes in operation.
- (g) *Suspension of revocation of permit.* Any user who violates the conditions of the wastewater discharge permit, and provisions of this chapter, applicable [tribal or state and federal rules and regulations](#), or any of the following is subject to having his permit suspended or revoked:
 - (1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
 - (2) Failure of the user to report significant changes in operations or wastewater constituents and characteristics;
 - (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
 - (4) Failure to report a chemical spill or accidental discharge as in section 145-42.

Sec. 145-29. - Monitoring facilities.

- (a) Users who propose to discharge, or who in the judgment of the Approving Authority likely could discharge, wastewater with constituents and characteristics different from that produced by a domestic premises, may be required to install a monitoring facility.
- (b) When more than one user can discharge into a common building sewer, the Approving Authority may require the installation of a separate monitoring facility for each user. Also, when in the judgment of the Approving Authority there is a significant difference in the wastewater constituents and characteristics produced by different operations of a single user, the Approving Authority may require that separate monitoring facilities be installed for each separate discharge.
- (c) Monitoring facilities that are required to be installed shall be constructed, operated and maintained by the user at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is required by the Tribe, it shall be provided, installed and operated at the user's expense. The monitoring facility will normally be required to be located on the user's premises outside the building. However, the Tribe may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area with the approval of the public agency having jurisdiction over that street or sidewalk, and located so that it will not be obstructed by landscaping or parked vehicles.
- (d) If the monitoring facility is inside the user's fence, there shall be accommodations to allow safe and immediate access for Tribal personnel, such as a gate secured with a Tribal lock. There will be ample room in or near such facility to allow accurate sampling and composition of samples for

analysis. The entire facility and the sampling and measuring equipment shall or may be supplied by the user, at his expense.

- (e) Whether on public or private property, the monitoring facilities shall be constructed in accordance with the Tribe's requirements and all applicable and local Tribal construction standards and specifications. When in the judgment of the Tribe the existing user is required to have a monitoring facility, the user will be so notified in writing. Construction must be completed within 90 days following a written notification unless a time extension is otherwise granted by the [Division Eastern Band of Cherokee Indians](#).

Sec. 145-30. - Inspection and sampling.

The [Secretary of the Division of OperationsTribe](#) may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the Eastern Band of Cherokee Indians, or its representatives, ready access at all reasonable times to all parts of the premises for purposes of inspection or sampling or in performance of any of their duties. The [DivisionTribe](#) shall have the right to set up on the user's property such devices as are necessary to conduct sampling or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements with their security guards so that upon the presentation of suitable identification, personnel from the [DivisionTribe](#) will be permitted to enter without delay for the purposes of performing their specific responsibilities.

Sec. 145-31. - Pretreatment.

Users shall make wastewater acceptable under the limitations established herein before discharging into any Tribal sewer. Any facilities required to pretreat wastewater to a level acceptable to the Tribe shall be provided and maintained at the user's expense. Pretreatment facilities shall be operated continuously during periods of wastewater discharge to the Tribal sewer in such a manner as to produce a pretreated discharge acceptable to the Tribe as defined in sections 145-22, 145-26, 145-27, 145-28 and 145-34. Detailed plans showing the pretreatment facility and operating procedures shall be submitted to the [DivisionEastern Band of Cherokee Indians](#) before construction of the facility. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent complying with the provisions of this chapter. Any subsequent changes in the pretreatment facility or method of operation shall be reported to and be approved by the Approving Authority.

Sec. 145-32. - Protection from accidental discharge.

- (a) Each user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this chapter. Facilities to prevent actual discharge of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the [DivisionTribe](#) for review, and shall be approved by the [DivisionTribe](#) before construction of the facility.
- (b) The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this chapter.

Sec. 145-33. - Control manhole.

A control manhole shall be provided downstream from any building, treatment, storage tank or any other approved works to facilitate monitoring of industrial waste. The discharger shall provide and maintain the control manhole pursuant to section 145-29. Any and all users may be required by the Tribe

to construct a control manhole. The user who has constructed a monitoring facility, section 145-29, may be waived of the requirement of a control manhole by the Approving Authority.

Sec. 145-34. - Flow control measuring equipment.

Where preliminary treatment, flow-equalizing facilities, or flow monitoring facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the property owner at his expense. All flow control equipment including, but not limited to, pumps, nozzles, weirs, gates, valves, and flumes shall be subject to the approval of the Approving Authority.

ARTICLE V. - WASTEWATER CHARGES AND FEES

Sec. 145-35. - Schedule of charges and fees.

A schedule of charges and fees shall be adopted by the Tribe ~~which will enable it to comply with the revenue requirements of the State Clean Water Grant Program and Public Law 92-500~~, and said charges and fees shall be as shown on the attached rate schedule. These rates shall be in effect for all users, and shall take precedence over any terms or conditions of agreements, or contracts between the Tribe and the users. All industries using the Tribal collection works are subject to industrial waste surcharges on discharges whose characteristics exceed the limits set in section 145-36 for certain pollutants.

(Ord. No. 133, 4-8-1986)

Sec. 145-36. - Types of charges and fees.

The charges and fees as established in the Tribal schedules of charges and fees, may include, but not be limited to:

- (a) User classification charges.
- (b) Fees for extra monitoring; i.e., that which require costs above the average cost of assessing an average or representative analysis.
- (c) Fees for permit applications (include regular monitoring charges on permits).
- (d) Appeal fees.
- (e) Charges and fees based on wastewater constituents and characteristics.
- (f) Ad valorem tax.
- (g) Industrial waste surcharges.
- (h) User charge payments.

(Ord. No. 133, 4-8-1986)

Sec. 145-37. - Basis for determination of surcharges.

- (a) Charges and fees shall be based upon a minimum basic charge for each premises, computed on the basis of wastewater from a domestic premises with the following characteristics:

BOD	250 mg/l
TSS	150 mg/l

Oil and grease (total)	40 mg/l
COD	625 mg/l
Ammonia Nitrogen	15 mg/l

(b) The charges and fees established for permit users shall be based upon the measured or estimated constituents and characteristics of the wastewater discharge of that user which may include, but not be limited to, BOD, COD, ammonia, oil and grease, chlorine demand and volume.

(Ord. No. 133, 4-8-1986)

Sec. 145-38. - Method of determining surcharges.

The charges for excesses of the constituents listed in section 145-36 will be based upon the "mass emission rate" of those constituents and determined as follows:

(a) Mass Emission Rate, MER () = MG × C × 8.34 where:

MER is the mass emission rate in pounds of a particular constituent.

MG is the millions of gallons of wastewater discharged; and

C is the concentration in mg/l of the particular constituency being charged for (as an example) BOD, COD, etc. and 8.34 is equal to the number of lbs./one gallon of water.

(b) The amount of the charge in dollars will be calculated as follows: $A_o = R \times MER ()$ where:

Ao is equal to the amount of the charge in dollars; and

R is equal to the rate of charge per lb. of constituents; and

MER () is equal to the lbs. of a constituent.

(c) Where a single discharge is such that more than one constituent is excessive and subject to surcharge, the actual surcharge will be based on the most costly constituent rather than on the total of excessive constituents.

An Example of Surcharge:

"X" Corporation is a producer of canned food. They discharged 1,000,000 gallons of wastewater in the month of January. Analysis found that the wastewater had the following characteristics: BOD - 400 mg/l; 155 - 950 mg/l. There were no other limitations exceeded in this example. There were 100 employees employed at the cannery. The limits of BOD and TSS are 250 mg.

The MER of BOD is equal to:

MER _{BOD}	=	$(400-250) \times 8.34 \times 1 \text{ MG}$
	=	$(150) \times 8.34 \times 1$

	=	1251 lbs. of BOD or 1.212 thousand lbs. BOD
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If the charge for BOD is R = \$70.00/1,000 lbs. BOD, the total charge for BOD is equal to, as...

Ao = R	×	MER
Ao = \$70.00	×	1.121
Ao = \$78.47		

For TSS, the charge would be computed as follows:

MERTSS = (950-250) × 8.34 × 1 MG = 700 × 89.34 × 1 = 5838 lbs. TSS or 5.838 thousand lbs. TSS.

At a charge of \$70.00/thousand lbs., the charge for TSS - 5.838 × \$70.00 = \$408.66.

Total charges for January -

BOD	Charge	-	\$	78.47
TSS	Charge	-	\$378.66	=
The higher charge = \$378.66				

(Ord. No. 133, 4-8-1986)

Sec. 145-39. - Method of determining charge rates.

- (a) The Utility Commission will annually review the actual cost of operation, maintenance, and Tribal Treatment Charges and adjust the surcharge rates and the User charge rate (per 100 cubic feet) to reflect the true cost of constituent treatment. The adjustments, if any, will become effective 30 days following the adjustment of Tribal Treatment Charges. The Tribal Utility Commission may review these rates and adjust them accordingly at any time it deems adjustments are in the best interest of the Tribe, but the Commission must review these rates at least every two years. In addition, the Commission shall make notification to each user at least annually in conjunction with the regular billing process, of the rate and that portion of the user charge which is attributable to the wastewater treatment.

The Formula for the setting of the user charge rate is as follows:

Base Rate (Minimum payment) based on 400 cubic feet of usage
 CU + Administrative Overhead calculated by Commission

CU =	Ct	Ct = Total operation & Maintenance cost.
	Vt	Vt = total volume.
CU =	Cost per 100 cubic feet treated	

- (b) The Tribal Utility Commission does hereby set the following surcharge rates effective from the date of this chapter (April 8, 1986):

COD	- \$70.00 per 1,000 lbs. in excess of 625 mg/l
BOD5	- \$70.00 per 1,000 lbs. in excess of 250 mg/l
TSS	- \$70.00 per 1,000 lbs. in excess of 250 mg/l
Total oil & grease	- \$70.00 per 1,000 lbs. in excess of 40 mg/l

(Ord. No. 133, 4-8-1986)

Sec. 145-40. - Sampling procedures and analysis.

- (a) All samples and determinations of wastewater characteristics shall be as representative of the waste discharge as possible. The costs of regular sampling and analysis will be included in the permit or class type. The [Division-Tribe](#) may take additional samples after a significant process change which significantly affects the quantity or strength of the wastewater discharges. The frequency of sampling shall be as follows:

Daily Average Flow-Gallons Per Day	Thousand Minimum Required Frequency of Tests of Surcharge Parameters*
0—10	0—1 per year
10—20	1 per year
20—30	1 per six months
30—40	1 per three months
40—50	1 per month
Over 50	2 per month

* More frequent sampling may be done at any time at the option of the [DivisionTribe](#) for any industry where pretreatment is required or that has discharged incompatible wastes in the past.

- (b) Upon request by the person concerned, the [DivisionTribe](#) shall make available split samples of the composite sample collected. If the person feels the results are not representative of their wastes, the Tribe may re-sample at a cost to the person of the actual cost to the Tribe, which will include sampling and analysis for BOD, TSS, COD, Ph, chlorine demand and oil and grease or heavy metals, if necessary.

Sec. 145-41. - Sampling small industries.

Small industries with inadequate sampling facilities may, in the event that waste characteristics do not vary more than 25 percent, be charged an estimated or average surcharge for that industry.

(Ord. No. 133, 4-8-1986)

ARTICLE VI. - ENFORCEMENT

Sec. 145-42. - Duties of user upon unlawful discharges.

- (a) Any user who discharges wastes in violation of this chapter shall, upon discovery thereof, immediately notify the [Secretary of the Division of OperationsTribe](#) so that the Tribe may take necessary countermeasures to minimize the damage to the Tribal sewer, treatment facilities, treatment process and receiving waters. The user shall immediately correct the source of the violation. In addition, such user shall, within 15 days of such occurrence deliver to the [SecretaryTribe](#), a written detailed report describing the cause of such discharge and the measures taken or to be taken to prevent a reoccurrence in the future.
- (b) Any user who has an accidental discharge which violates this chapter and who gives notice and report provided for in the preceding paragraph shall be relieved from any civil or criminal penalties unless the violations continue or reoccur. In no case shall the user be relieved from liability to the Tribe for any expenses, loss or damage to the Tribal sewer system, treatment facility, treatment processes or receiving waters, nor from liability for any fines imposed upon the Tribe: by the Environmental Protection Agency, under any applicable federal law or regulation, or the Tribe under the wastewater discharge chapter nor from termination of service, suspension or revocation of any discharge permit or injunctive relief if the measures taken or to be taken to prevent a reoccurrence are not adequate.
- (c) Any user or individual who causes malicious damage to the treatment works and or appurtenances shall have civil or criminal actions taken against them.

Sec. 145-43. - Penalties for violation of chapter.

- (a) Any person, including [but not limited to](#) any responsible officer or employee of a corporate violator, who willfully or negligently violates any provisions of this chapter, or falsifies any information or data in any application, report or other document given to the Tribe under this chapter, shall be guilty of a misdemeanor. All such persons who are subject to the criminal jurisdiction of the Cherokee Indian Court shall be subject to imprisonment of 60 days or a fine of \$500.00, or both. Persons who are not subject to the criminal jurisdiction of the Cherokee [Indian](#) Court shall be subject to punishment in the North Carolina or United States Courts, as appropriate, under the provisions of N.C.G.S. 14-4.
- (b) Any person, including any corporation, who violates any provisions of this chapter shall be subject to the imposition by the [Division Tribal Utilities Commission](#) of a civil penalty not to exceed \$5,000.00 for each violation, and, in addition, shall reimburse the Tribe, upon demand for any expenses, loss or damage actually sustained by the Tribe to its sewer system, treatment plant, treatment process or receiving waters as a result of such violation and for the amount of any fine or penalty imposed upon the Tribe by ~~any any state or~~ federal regulatory agency as a result of such violation. A civil penalty

shall be assessed only according to the rules and regulations adopted by the Division in accordance with C.C. Chapter 150. Unpaid civil penalty, fees and assessments are a debt to the Tribe and shall be collected as such. ~~after the Tribe shall have given the alleged violator notice of contemplated Board action, and hearing if requested. If the offender fails to pay the civil penalty so assessed within 15 days after written notice of final assessment thereof, then said penalty may be recovered by the Tribe in a civil action in the nature of debt.~~

Sec. 145-44. - Injunction and abatement.

The violation of this chapter is hereby declared to be a public nuisance, and this chapter may be enforced by injunction and order of abatement. Such actions may be commenced in the Cherokee ~~Indian Court, against all persons subject to its jurisdiction while those not subject to the jurisdiction of the Cherokee Court may be subjected to the provisions of N.C.G.S. 160A-175 in the North Carolina Courts or the United States Courts, as may be appropriate.~~

Sec. 145-45. - Termination of service; revocation of permits; issuance of cease and desist orders.

In addition to penalties provided elsewhere in this chapter, if any person violates any provision of this chapter, the ~~Division Tribe~~ may:

- (a) Terminate water or sewer service, or both, to the property in or upon which such violation occurred;
- (b) Suspend for a specified period of time or permanently revoke any permit or business license or lease granted to such user under any provisions of tribal law~~this chapter~~; or
- (c) Issue a cease and desist order directing such user to:
 - (1) Comply with this chapter forthwith;
 - (2) Comply with this chapter in accordance with a time schedule set forth by the Tribe; or
 - (3) Take appropriate remedial or preventive action; or
 - (4) A combination of section (2) and (3) above.

Sec. 145-46. - Notice.

- (a) ~~Water and sewer service shall be terminated, cease and desist orders shall be issued and permits shall be denied, suspended or revoked by the Budget and Finance Office, as authorized by the Utilities Commission, only after the Budget and Finance Office has given written notice to the user of the contemplated action which may be by information provided on their monthly bill; provided, however, tNotice shall be given according to the rules and regulations adopted by the Division or the Utility Commission prior to the disruption in service, suspension or revocation of permits, or other corrective actions or penalties. However,~~ this section shall not be held to prohibit the temporary suspension, without written notice, of water or sewer service, or both, to any user if, in the considered opinion of the Approving Authority, an emergency exists or is imminent which threatens the public health, or is likely to cause severe injury or damage to or interruption of the Tribal sewer system, treatment plant, treatment process or threatens the lives or severe injury to Tribal employees, agents or other authorized personnel.

ARTICLE VII. - ADJUSTMENT OF MONEY OWED

Sec. 145-47. - Adjustment of money owed.

The Division shall adopt rules for the adjustment of a consumer's bill for water and sewer services. ~~The~~ manager of the Water and Sewer Operation and Maintenance Program~~Office~~ may approve an adjustment of a consumer's bill for water and sewer service in an amount not to exceed a total of

\$150.00.; [Requests for any adjustments](#) exceeding that amount must be approved [according to the rules adopted](#) by the [Division Utilities Commission](#).

ARTICLE VIII. - FATS, OILS AND GREASES (FOG)

Sec. 145-48. - Fats, oils and greases (FOG).

Fats, oils and greases are any one or a combination of mineral, vegetable or animal fats, shortening or other such oily matter. Fats, oils and greases are used for the purposes of or are the result of cooking and/or preparing foods. Included are oils, fats, cellulose, starch, proteins and waxes.

Fats, oils and greases are organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in the United States Code of Federal Regulations 40 CFR 136, as may be amended from time to time. All are sometimes referred to as "grease" or "greases."

Sec. 145-49. - Greases containment devices required.

Whereas the major sources of fats, oils and greases are from commercial cooking and/or food processing operations, all food service establishments shall be required to have in operation or have installed a properly designed grease containment device (aka: grease trap/interceptor). Cooking and/or food processing operations shall be defined as the following: restaurants, commercial kitchens, caterers, hotels, cafeterias, delicatessens, meat cutting-preparations, bakeries, ice cream parlors, cafes, hospitals, schools, bars, correctional facilities, care institutions and any other facilities discharging kitchen or food preparation wastewaters which may contain more than the 100 mg/l limit of fats, oils and greases.

Sec. 145-50. - Discharge limit on FOG.

No facility discharging to the wastewater collection and transportation system, other than a private residence, may discharge wastewater which contains more than 100 mg/l of FOG.

Sec. 145-51. - Design requirements.

All grease traps/interceptors shall be designed by a professional engineer, licensed in the state of North Carolina and be approved by the [Division's Chief Building Inspector](#) ~~or a member of the Tribal Engineering Department~~. Grease containment devices may be of the outdoor or indoor type.

Only wastewater from food processing areas shall be routed to the grease containment device, no wastewater from bathrooms, janitorial sinks or any other form of wastewater containing human waste may be discharged into the containment device.

Outdoor grease containment devices shall be a minimum of 1,000 gallons capacity, two chambers with each chamber directly accessible from the surface. It shall be located to allow complete access to both chambers for servicing and maintenance. A baffle or screen shall prevent any object greater than ½ inch from entering the sanitary sewer system from the device and shall be removable for cleaning. All outdoor grease containment devices shall be designed for a minimum of 20 minutes of detention at regular flow with 20 percent solids buildup on the bottom of the tank. A location for sampling effluent shall be included in the design.

Indoor, or "under counter" units shall be a minimum of 100 gallons capacity and designed to handle the anticipated flow as a prefab unit.

All plans for grease interceptor shall be to scale, shall depict the location of the interceptor unit, access, plumbing showing distinct separation from bathrooms and details of the individual unit.

Sec. 145-52. - Maintenance and inspection.

The food service establishment is solely responsible for maintaining the grease control device at a capacity capable of intercepting fats, oils and greases and operating at all times to comply with the 100 mg/l limit on discharge.

The use of enzymes, solvents and emulsifiers is not allowed as a maintenance practice. Use of certain bacteria may be allowed with the approval of the managers of the collection system and the wastewater treatment plant.

The food service establishment shall schedule service of the grease containment device with an approved removal service as needed to achieve the 100 mg/l requirement on discharge. Indoor units shall be cleaned on a daily basis. No materials removed from any grease containment device shall be reintroduced into the waste stream or building sewer.

The food service establishment shall maintain records of all materials removed from the grease containment device and make the records available to the [Division and the Building Tribal Inspector](#) upon request.

The [Division Tribal Office of Environmental Health](#) shall conduct monthly inspections and obtain random grab samples of effluent for testing. Any food service establishment which test higher than the 100 mg/l for fats, oils and greases shall be deemed in violation of this portion of the Cherokee Code.

Sec. 145-53. - Violation and corrective action.

Any food service establishment not having an approved grease containment device at the time of ratification of this law shall be deemed to be in non-compliance with the Cherokee Code. Any food service establishment remaining in non-compliance for more than one year from the date of notification by the Manager of the Water and Sewer [Operations and Maintenance Program O&M department](#) shall be issued a letter of non-compliance. ~~Only one letter of non-compliance will be provided to each food service establishment.~~ All future actions after a letter of non-compliance will proceed directly to a notice of violation and enforcement procedures as outlined within Article VI of this chapter [and pursuant to rules adopted by the Division to carry out this Chapter](#).

The primary reasons for issuance of a notice of violation are, but are not limited to:

- (1) If any food service establishment shall still not have an approved grease containment device after more than one year and one month for the date of notification by the Manager of the Water and Sewer [Operations and Maintenance Program O&M department](#).
- (2) Any grease containment device is not being maintained.
- (3) Any effluent grab sample tests greater than 100 mg/l.
- (4) Failure or refusal to provide Inspector with records of grease containment device maintenance.
- (5) Denial of Inspector reasonable access to a grease containment device.

A notice of violation shall be sent by registered mail to the manager of the food service establishment. The notice of violation shall list the circumstances of the violation, the recommended corrective actions to be taken and a time frame for correction of the violation.

The [Division of Operations Utility Commission](#) has authorization to [adopt and implement rules regulations, fees, fines and penalties and fines in](#) accordance with this chapter [to enforce the standards for wastewater discharges and the use of and compliance with the tribal water and sewer system](#). [Such rules for the administration of this chapter shall be in accordance with C.C. chapter 150.](#)