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LAND USE  
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**TITLE 20  
LAND USE**

**CHAPTER ONE  
OIL AND GAS WELL DRILLING**

**Section 101. Permits.**

It shall be unlawful and an offense for any person, firm or corporation, or any individual, either for himself or acting as agent, employee or servant to any other person, firm or corporation, to commence drilling operations, to drill any well or to open any well drilled for the production of petroleum or natural gas, or to engage in any work or to erect any structures, tanks, machinery, pipe lines or appurtenances incident to the production of petroleum or natural gas, or to operate, maintain any property or premises for such production within the limits of any land owned by, or held in trust for the Seminole Nation of Oklahoma, unless a permit for the drilling and operation of said well shall have been first obtained as provided by the terms of this ordinance.

[HISTORY: Ordinance No. 76-2, July 17, 1976; Codified by Law  
91-12, November 16, 1991.]

**Section 102. Drilling Specifications.**

Any person, firm or corporation, or any individual, either for himself or acting as agent, employee or servant to any other person, firm or corporation, shall not drill any well, commence drilling operations, or open any well drilled for the production of petroleum or natural gas, and shall not operate or maintain any well for such production within the limits of any such land of the Seminole Nation, unless said drilling operation conforms to the provisions hereto. All wells shall have surface pipe set to the depth of 1,000 feet or the bottom of the hole, whichever is less. Cement shall be circulated from the top to the bottom. In all injection wells in which casing is set, tubing shall be run and injection made through the tubing with a packer set above the perforations in the producing sands. All producing wells shall be produced through tubing with a packer set above the producing sands. At all times pressure of 100 pounds shall be maintained between the tubing and the casing. Violation of this Section, or any part thereof, shall be punishable by a payment of damages to the Seminole Nation not to exceed \$100.00 including costs. Each day's operation in violation of this Section shall be a separate offense.

[HISTORY: Ordinance No. 76-2, July 17, 1976; Codified by Law  
91-12, November 16, 1991.]

**Section 103. Application for Permit.**

To obtain a drilling permit, the requesting party shall file a written application with the Secretary of the General Council. Such application shall define the drilling area and fix the location where the proposed well will be drilled and shall contain a statement as to the number of lots in the drilling area on which the applicant holds oil and gas leases or contracts for such leases from the property owner. The petition shall also state that applicant has more than fifty-one (51) percent of the property under lease, and what percentage of the total property in the area applicant has under lease. Said petition shall be sworn to as true and correct by applicant or a duly authorized

agent or attorney for applicant and before some officer authorized to administer oaths. There shall be attached to the application a plot or map showing the location of the well and the proposed location of the tanks, pits, pipe lines, and embankments. If the application shows that the applicant is the owner of the leases covering all the property in the drilling area, the Secretary may grant a permit for such well, provided that such permit shall not be used by applicant until the applicant has complied with all the requirements in relation to the drilling of a well within the above described limits of the Seminole Nation. If the application shows that the applicant does not have the entire drilling area under lease the Secretary shall deny the application, and consideration of the application shall be transferred as on appeal to the General Council.

[HISTORY: Ordinance No. 76-2, July 17, 1976; Codified by Law 91-12, November 16, 1991.]

#### **Section 104. Deposit.**

Before any permittee may make use of such a drilling permit, there shall be deposited with the Secretary of The General Council the sum of One Hundred Dollars (\$100.00), as a permit fee.

[HISTORY: Ordinance No. 76-2, July 17, 1976; Codified by Law 91-12, November 16, 1991.]

#### **Section 105. Pond.**

Before any permittee may proceed under any permit to drill or put down any petroleum or natural gas well, such permittee shall file with the Secretary of the General Council a good and sufficient bond executed by some bonding or indemnity company authorized to do business in the State of Oklahoma, Running in the name of the Seminole Nation of Oklahoma, and conditioned that the applicant will pay or discharge any liability imposed by law for damage on account of injury to property, public or private, or bodily injury, including death received or suffered by any person resulting from the drilling operation or maintenance of such well, equipment, machinery, tanks, pipe lines or appurtenances thereto. The maximum total liability under said bond for loss or damage, either to person or property, as to each well shall be Fifty Thousand Dollars; provided that such bond shall be made for a period of not less than one year, and provided further that a blanket bond in the sum of One Hundred Thousand Dollars (\$100,000.00) may be supplied to cover one or more drilling wells, any operator of an oil or gas well on tribal lands in the Seminole Nation shall at all times keep on file a bond similarly conditioned with a maximum liability of Ten Thousand Dollars (\$10,000.00) for each operating well, provided that a blanket bond of Fifty Thousand Dollars (\$50,000.00) may be filed to cover one or more wells. No operation bond shall be required for any well until the time that the drilling bond covering such well has expired.

[HISTORY: Ordinance No. 76-2, July 17, 1976; Codified by Law 91-12, November 16, 1991.]

#### **Section 106. Location of Well.**

No well for the production of oil or gas shall be put down nearer than twenty-five (25) feet to a street or nearer than fifty (50) feet to any structure used as a home or place of business.

[HISTORY: Ordinance No. 76-2, July 17, 1976; Codified by Law 91-12, November 16, 1991.]

**Section 107. Fence.**

At the conclusion of drilling operations a fence shall be erected around the well and machinery used in connection with the operation of said well.

[HISTORY: Ordinance No. 76-2, July 17, 1976; Codified by Law 91-12, November 16, 1991.]

**Section 108. Gas Motors.**

All gas motors used for pumping wells on said tribal land shall be properly muffled.

[HISTORY: Ordinance No. 76-2, July 17, 1976; Codified by Law 91-12, November 16, 1991.]

**Section 109. Pipe Lines.**

All pipe lines laid on said tribal lands, except those on the location, shall be buried to a minimum depth of twenty-four (24) inches below the normal surface of the ground, and no pipe line shall be laid until the person or company laying such line shall obtain a permit from the Secretary of the General Council. A permit fee of One Dollar (\$1.00) a rod must be paid at the time the permit is issued. Any damage to streets, sidewalks or public ways must be repaired by the person or company laying the line.

[HISTORY: Ordinance No. 76-2, July 17, 1976; Codified by Law 91-12, November 16, 1991.]

**Section 110. Pits.**

As soon as the bottom of such pits have dried sufficiently to permit such work, weather conditions permitting, the slush pits and circulation pits used for the storing of mud and drilling water during drilling operations, shall be, by the operator, filled in and leveled.

[HISTORY: Ordinance No. 76-2, July 17, 1976; Codified by Law 91-12, November 16, 1991.]

**Section 111. Condition of Premises.**

The person or persons in charge of the producing operations of a well shall keep the fence enclosure around such well free from all trash and inflammable substances not necessary to be used in the operation of such well, and shall keep the weeds out and otherwise keep such location in a clean and orderly looking condition. Machinery and equipment not used in the operation of said well shall not be stored or left in such enclosure after a reasonable time for its removal. All oil tanks shall be painted.

[HISTORY: Ordinance No. 76-2, July 17, 1976; Codified by Law  
91-12, November 16, 1991.]

**Section 112. Abandonment; Removal of Equipment.**

Upon abandonment of any location on tribal land, the person or company in charge of such operations shall remove from the well location all of the derrick, equipment, machinery and tanks and level all dikes and embankments and fill the drilling cellar if any.

[HISTORY: Ordinance No. 76-2, July 17, 1976; Codified by Law  
91-12, November 16, 1991.]

**Section 113. Common Meaning of Words Governs.**

Words used in this ordinance, unless otherwise defined, shall be the common meaning of such words as generally understood in the oil and gas industry, unless the contents herein clearly imply otherwise.

[HISTORY: Ordinance No. 76-2, July 17, 1976; Codified by Law  
91-12, November 16, 1991.]

**Section 114. Separate Validity of Provisions.**

If any part of this ordinance, or any rule, regulation, or requirement shall be held to be invalid by a court of competent jurisdiction, such invalidity shall not affect the validity of any part or section or other rule, regulation or requirement herein.

[HISTORY: Ordinance No. 76-2, July 17, 1976; Codified by Law  
91-12, November 16, 1991.]

**TITLE 20  
LAND USE**

**CHAPTER TWO - PUBLIC WORKS**

**GENERAL PROVISIONS**

**Section 201. Title and Date**

This Chapter shall be titled: Seminole Nation Public Works Ordinance. The ordinance shall become immediately effective upon enactment of a resolution for adoption, by the Seminole Nation General Council.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 202. Purpose**

The purpose of the Seminole Nation Public Works Ordinance is to define the policies, establish an organization and identify the necessary rules and regulations for the operation, maintenance and management of the various public utilities located within the Seminole Nation jurisdiction.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 203. Policy**

It shall be the policy of the Seminole Nation of Oklahoma to operate, maintain and manage the public utilities and services within the Seminole Nation jurisdiction so that the community residents are provided with a high level of service designed to minimize exposure to adverse conditions which could negatively impact the physical and environmental health of any individual or the community. It shall also be the policy of the Seminole Nation that the operation, maintenance and management of the public utilities and services shall be carried out through an efficient Utility Program and in a financially responsible cost effective and self-sufficient manner.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 204. Jurisdiction**

The authority to establish a Tribal Utility Program and to levy appropriate user fees to all residents and organizations in operation within the Seminole Nation jurisdiction is provided by the Seminole Nation of Oklahoma Constitution.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## Section 205. Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be set forth as follows:

- (a.) **Appurtenances** - Real and personal property owned by the Utility Program or the Tribe located on, near or under the roadways and streets, such as fire hydrants and valves.
- (b.) **Contractor** - Any individual, firm or organization that contracts with the Utility Board to provide environmental services or utility repairs design, inspection, reconstruction or operation.
- (c.) **Customer** - A person, business, agency or other organization that uses, is entitled to use, or is obligated to pay for the use or receipt of services from the Utility Program.
- (d.) **Customer Lines** - The potable water lines and sanitary sewer lines immediately adjacent to, inside of, or under a customer's residence or their building or property, which are either connected to utility service lines or are maintained by the customer separately from utility service lines.
- (e.) **Distribution System Lines** - Are those potable water lines maintained by the Utility Program by which water utility services are provided to customers.
- (f.) **Meter** - A device, owned by the Utility Program, for measuring the amount of water services provided to a particular customer.
- (g.) **Manager** - An individual hired by or appointed by the Utility Board to oversee and manage the operation of the Utility Program.
- (h.) **Operator** - An individual hired by or appointed by the General Councilor manager to provide direct day to day preventive maintenance and operational service of the public water an sanitary sewer utilities.
- (i.) **On-Site Sewage Treatment and Disposal systems** - Individual or community septic tanks and subsurface drain fields and associated appurtenances that collect, treat and dispose of liquid waste generated by customers, which are maintained and operated by the Utility Program.
- (j.) **Off-Reservation** - Any area located outside of the exterior boundaries of the Seminole Nation jurisdiction.
- (k.) **Program** - The Utility Program of the Seminole Nation.

- (l.) **Regulation** - Rule of law or procedure duly adopted by the General Council for purposes of implementing the requirements of this Chapter.
- (m.) **Shall, May** - "Shall" is mandatory; "May" is permissive.
- (n.) **Utility Board** - Is responsible for, and authorized to manage, the Utility program of the Seminole Nation, as established by this Chapter.
- (o.) **Utility Program/or Tribal Utility Program** - A program of the Seminole Nation authorized to operate the utility services provided by the Tribe.
- (p.) **Vendor** - Any individual firm, contractor or organization who regularly supplies parts, equipment, supplies and services to the Utility Program used in the operation maintenance and management of the Utilities Services of the Seminole Nation Indian Reservation.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 206. Establishment of Utility Program**

There is hereby established the Seminole Nation Utility Program having the responsibility for operating and maintaining the tribal public utilities and providing essential community services directly or by contract.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 207. Utility Board**

There is hereby established the Seminole Nation Utility Board to serve as the advisory, administrative and management authority for the Seminole Nation Utility Program.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 208. Utility Board - Operating organization**

The Utility Board shall operate as a subordinate unit of tribal government, independent in its daily operation, but responsible to the General Council for its action. The methods of appointment, in terms of office and operating procedures of the Utility Board shall be set forth in this and the Plan of Operation of the Seminole Nation.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **Section 209. Utility Board - Powers and Responsibilities**

The Utility Board shall manage the public utilities of the Nation, and obtain and disburse funds as required for operation, maintenance and expansion of the Tribal public utilities.

To fulfill these responsibilities, the Utility Board shall have to power to:

- (a.) Levy and collect reasonable fees for utilities and services subject to review by the General Council prior to adoption by the Board members;
- (b.) Provide for the hiring and compensation of appropriate management and personnel; said hiring and compensation to conform with established Tribal personnel policies and salary guide lines;
- (c.) Adopt appropriate regulation to implement the requirements of this Chapter;
- (d.) Authorize disbursement of funds for operation, maintenance, improvements to the system, elders and low income support and repair of utility services, based upon an annual budget to be ratified annually by the General Council.
- (e.) Contract with vendors and contractors to assure that safe and reliable services are available to and utilized by the residents of the Seminole Nation jurisdiction. The Utility Board is expressly exempt from Tribal procurement and contracting requirements;
- (f.) Acquire real and personal property on behalf of the Utility Program provided that the Utility Board shall not petition the Secretary of the Interior to place any land in trust on behalf of the Seminole Nation without the express consent of the General Council as authorized by a duly adopted resolution;
- (g.) Authorize capital expenditures and the development or construction of physical infrastructure, not to exceed three million dollars (\$3,000,000), such as sewers, lagoons, water storage systems; water treatment facilities, water distribution systems, access roads, and buildings, for example;
- (h.) Execute as an agency of the Seminole Nation applications for receipt and administration of federal grants and any other federal applications or contracts for purposes of funding types of activities in which the Utility Board may engage pursuant to the terms of Section 290 of this Act;
- (i.) Borrow money or make, accept, endorse or issue bonds, debentures, promissory notes, mortgages, or security agreements or any other instrument of indebtedness or guaranty not to exceed three million dollars (\$3,000,000.00);

- (j.) Have and exercise the right of eminent domain for the purpose of acquiring right-of-way and other properties in the manner now provided by the condemnation laws of Seminole Nation, as may be enacted, for acquiring private property for public use, provided, that the use of said eminent domain provisions, shall be restricted to the purpose of developing and providing gas distribution, water works and sewage disposal facilities;
- (k.) Acquire water rights, construct, erect, purchase, lease as lessee and in any manner acquire, own, hold, maintain, improve, operate, sell, dispose of, lease as lessor, exchange and mortgage plants, buildings, works, machinery, supplies, equipment, apparatus, facilities, property rights and transportation and distribution lines, facilities, equipment or systems necessary to transport, distribute, sell, furnish, treat, store and dispose of water or sewage. The disposal of any water outside the Seminole Nation shall not be permitted without the consent of the Legislature; and
- (l.) Authorize investment of Utility Program funds in accordance with accepted tribal policies and procedures.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 210. Utility Board - Membership**

- (a.) The Utility Board shall be composed of five (5) Tribal Members nominated by the Principle Chief and confirmed by the General Council to serve on the Utility Board. Appointment of each Board member shall be individuals with substantial education, experience, training, and/or knowledge of delivery or management of utilities, or a related field; and shall be subject to the following order of appointment preference: (1) an enrolled member of the Seminole Nation of Oklahoma; (2) an enrolled member of any federally-recognized Native American Tribe; and then to (3) any non-Indian.
- (b.) No member of the Board shall be an employee of the Seminole Nation while serving on the Board.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 211. Term of Office**

- (a.) Members shall serve for a term of four (4) years except for the initial members of the Board.
- (b.) Initial Board member's term shall end on October 1, 2014. The second member's term shall end on October 1, 2015. The third member's term shall end on October 1, 2016. The fourth and fifth member's term shall end on October 1, 2016.

(c.) Any Member shall be eligible for reappointment regardless of whether or not some or the remainder of the Board membership is reappointed. A member who is not reappointed shall serve the remainder of his or her term until a successor is appointed and is confirmed by the General Council.

(d.) Future member appointments shall be in annual intervals; and members may holdover in office until their successor or replacement is appointed.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 212. Utility Board - Appointment**

The General Council will replace members upon resignation, or if a member has not acted in the best interest of the Board and the General Council decides by majority vote to replace that person.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 213. Utility Board - Vacancies**

If a Board Member resigns, moves from the local area, dies, or is found guilty of a felony or major crime in any court of law the General Council shall declare the Utility Board Member's position vacant. If any Board Member misses two consecutive Utility Board meetings without a valid excuse, the General Council may declare the position vacant. All vacancies shall be filled within one month in accordance with this Section. In the event that the number of unfilled Board Members vacancies prevents establishing a quorum for purposes of conducting business, the General Council shall act as the interim Utility Board until such time as the filling of Board Member vacancies allows for a quorum.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 214. Officers**

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

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 215. Duties of the Officers**

Officers of the Utility Board shall assume the following duties:

- (a.) Chairperson: Shall preside at all meetings; call and arrange all meetings; be responsible for general management of the Utility Board's affairs; and perform all duties incidental to the office.
- (b.) Vice-Chairperson: Shall perform all of the Chairperson's duties in the absence of the Chairperson; and shall assist the Chairperson as required in handling the Utility Board's affairs.
- (c.) Secretary/Treasurer: Shall keep or cause to be kept a complete and accurate record of all meetings and shall maintain all correspondences of the Utility Board. The Tribal Accounting Department shall be responsible for maintaining financial resources of the Utility Program and shall make all investments for the Utility Board in accordance with appropriate section of this Chapter. The secretary/treasurer shall report the Utility Program's financial status quarterly at regularly scheduled General Council meetings and shall present to the Council Members for their action all requests for funds to meet the Utility Program's financial obligations and shall prepare an annual financial statement for submission to the General Council for the general membership meeting.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 216. Meetings**

The Utility Board shall meet when business demands and requires attention, but in no case less than once per month. Regular and special meetings shall be called by the Chairperson, in writing, to schedule a special meeting of the Utility Board. If the Chairperson fails to schedule a meeting within five days after receipt of a written request from a Utility Board member, any other two Board members may call such a meeting.

Meetings shall be held in a public place, and the Utility Board shall provide at least 5 days public notice of Meetings. Emergency meetings may be convened with less than five days' notice, in cases of emergency where loss of life, limb or property is threatened, or where the continued operation or fiscal capability of the Tribal public utilities may be in jeopardy. All meetings shall be open to members of the tribal community and to users of the Tribal Public Utilities.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 217. Quorum and Voting**

A minimum of three Board Members is required to establish a quorum and conduct Utility Board business. Any action taken by the Utility Board must be approved by a majority vote of those Members present at a Board meeting. Each Board Member of the Utility Board, except the

Chairperson, shall be entitled to vote on each matter coming properly before the Utility Board. The Chairperson votes only in the event of a tie.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 218. Meeting Agenda**

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

- (a.) Call to Order
- (b.) Roll Call
- (c.) Reading of minutes of previous meeting
- (d.) Report by the Accounting Department or Manager on Financial Affairs
- (e.) Report by Manager and/or Operator
- (f.) Unfinished business ( to include comments from the public)
- (g.) New business ( to include comments from the public)
- (h.) Miscellaneous business
- (i.) Adjournment

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 219. Compensation**

Members of the Utility Board shall serve without monetary compensation, except as determined by the General Council. The Board members shall initiate prevailing government rates for mileage, per diem, or other costs, consistent with tribal policy provided that funds are available within the Utility Program budget approved by the Utility Board and ratified by the General Council.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 220. Public Hearings**

Utility Board shall convene public hearings to discuss changes in utility rates assessed to users of tribal public utilities and substantial changes to this Chapter. All customers will be notified of tribal public hearings in accordance with public notice postings and mailing addresses listed on file.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 221. Management Personnel**

The Utility Board shall manage the business and operating affairs of the Utility Program. The Utility Board may provide for hiring and contracting personnel for the care and maintenance of the Tribal Public Utilities (provided that hiring shall be in accordance with tribal personnel policies), and shall establish compensation rates consistent with the Utility Program's approved budget and the Tribal salary schedule. The Utility Board may delegate only those management duties that are not specifically designated as duties to be performed exclusively by the Utility Board.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 222. Annual Budget**

The Utility Board shall establish an annual budget enumerating the necessary costs for Utilities and Services operation, maintenance, administration, personnel, liability and other insurance, replacement, and a reserve for major repairs and replacements. The annual budget shall be ratified by the General Council.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 223. User Fee Schedule**

The annual budget shall be used to determine a fee schedule to be assessed to the users of Tribal Public Utilities. The budget and fee schedule shall be approved by the Utility Board and ratified by the General Council.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 224. Fiscal Year**

The fiscal year for the Utility Program shall be the same as the fiscal year of the Seminole Nation.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 225. Depository**

The depository of the Utility Program shall be a separate commercial account or accounts in any bank selected by the Utility Board. Said account shall be in the name "Seminole Nation Tribal Water System".

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 226. Investments**

Funds on deposit in excess of 30 working days may be invested in insured deposits at a commercial bank, savings and loan association or investment company offering the highest interest rate, providing that investment deposits shall have immediate liquidity. Investment deposits shall be made by the Utility Board Treasurer. Withdrawal of investments require the approval of the Utility Board. Withdrawals from accounts shall be signed by two of the officers of the Utility Board.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 227. Disbursements and Receipts**

The Utility Board shall determine the distribution of funds required for the operation, maintenance and management of the Tribal Public Utilities. Disbursements will be made by check upon presentation of invoices of Utility Board members or employees properly designated by the Utility Board. The Checks written on accounts shall be signed by two of the Officers of the Utility Board. Cash receipts will be deposited intact, as to amount, in the depository promptly. Receipts will be issued for all cash received and copies filed and retained for accounting.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 228. Records and Accounts**

Suitable financial records shall be maintained for all expenditures, receipts from payments for services, investments and returns on investments, and other financial matters necessary for operation of the Utility Program. The separate accounting records for the Utility Program shall be maintained in accordance with usual and generally accepted Accounting Principles. The records of accounts shall be submitted to the General Council quarterly, annually and at any time requested.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 229. Exclusive Use of Funds**

The funds accrued by the Utility Board and kept on deposit are for the exclusive use of the Utility Program for the necessary operation, maintenance, and management of the Tribal public utilities. These funds may not be loaned to the Tribal General Fund or any other accounts of the Tribe or other Tribal departments, except to pay for services provided to the Utility Board or Utility Program by other Tribal Departments.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 230. Audit and Reports**

The accounts of the Utility Board will be audited annually at the close of the fiscal year at the expense of the program. Annual and periodic reports will be submitted by the Utility Board to the General Council.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 231. Bonding**

Officers of the Utility Board and any other person(s) designated to handle funds for the Utility Program, shall be bonded or insured in accordance to Tribal Policy.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 232. Insurance**

Insurance shall be part of the Tribal insurance policies, with expenses thereof pro-rated to the Utility Program if so directed by the General Council.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 233. Petty Cash**

A petty cash fund is authorized to be established in the amount of \$200.00. This fund may be used to pay small expenses, when necessary, and to pay small obligations when it is not feasible to pay by check on the official depository. The Utility Board will reimburse or pay in full, in the amount of and upon the submittal of receipts, vouchers, and statements signed by the payees, of their proof of expenditure. Petty cash reimbursement vouchers shall be certified by the Utility Board Secretary/ Treasurer and Accounting Department.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 234. Regulations and Policy**

The Utility Board shall have the authority to adopt appropriate regulations and policies as needed to implement the provisions contained in this Chapter. Any proposed regulation or policy shall be submitted to the General Council for review at least two weeks prior to its proposed effective date, provided however, that emergency regulations may be adopted and shall take effect immediately without prior General Council review. Emergency regulations shall be presented to the General Council within 48 hours after adoption. Any regulation may be rescinded by the General Council at its discretion.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 235. Regulations and Policies: Suspension or Amendment**

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

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 236. Amendments**

The Utility Authority shall recommend amendments to this Chapter that it believes necessary to promote the efficient, cost effective and self-sufficient operation of the Utility Program, and shall present such amendments to the General Council for approval.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 237. Grievances**

Any customer or any applicant for utility services, who is aggrieved by any action of the Utility Program or the Utility Board may file a written grievance with the Utility Board. The Utility Board shall abide by the regulation set forth in this Chapter and shall handle such grievances in a manner which provides for due process of law. The procedure for grievances shall be as follows:

- (a.) The customer shall present a written or oral grievance to the Utility Board or one of its members.
- (b.) The grievance shall be addressed at the next scheduled Utility Board meeting or within one week of the filing date.
- (c.) The customer shall be informed of the date, time and place of the meeting when the grievance will be discussed.
- (d.) The customer may attend and present evidence on his or her behalf.
- (e.) The grievance reply shall be given to the customer with a copy sent to the Tribal Administrator within three (3) working days after the Utility Board meeting.

All decisions by the Utility Board on matters that have been submitted for grievance under the Utility Program's grievance procedure shall be considered final.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 238. Non-Waiver of Sovereign Immunity**

The Utility Program is an agency of the Seminole Nation of Oklahoma, and thereby retains all rights of sovereign immunity of the Tribe. By providing services and entering into service

agreements, the Utility Board and/or Utility Program shall not waive the sovereign immunity of the Seminole Nation or any of its officers, agents, attorneys or employees, or anyone else acting at the direction of and on behalf of the Seminole Nation.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 239. Services Provided**

The services provided by the Utility Program shall include domestic water. Additional services including but not limited to, Elders and low income support, community system improvement projects may be provided upon approval by the Utility Board and ratification by the General Council.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 240. Water Service**

The Utility Board has the responsibility of providing provide safe, adequate water for a fee to those houses, businesses and institutions connected to the mainlines of the community water system. Responsibility for maintenance will include water sources, storage tanks, controls, mainlines, valves and hydrants, and service lines to the curb stops only. The service line from the curb stop to the house and interior house plumbing are the responsibility of the customer. The individual household water meters are owned by the Utility Program and it is the responsibility of the Utility Program to maintain the meters. The tribal community water systems shall be managed such that the regulatory requirements of the Federal Safe Drinking Water Act, as established by the Environmental Protection Agency, are satisfied.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 241. Meters**

All homes hereafter that are connected to the community water system are required to install a water meter. All meters for measurements of utility services provided shall be installed in accordance with the requirements of the Utility Program, and shall be maintained by it. All meters shall remain accessible to Utility Program personnel and no person shall obstruct or tamper with any meter. Such obstruction or tampering shall be a violation of this code and subject the violator to actual damages and civil penalties under this code. The owner of the property on which the meter is located shall be responsible for all damage to or tampering with the turn off/ on water valve attached to such meter.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 242. Reconnection of Service**

If the water has been shut off by the Utility Board due to a customer's non-compliance with any provision of this Chapter, a reconnection fee as established by the Utility Board, and compliance attained before reconnection may occur. The Utility Board shall have the authority to waive the penalty charge in cases involving extenuating circumstances and when the shut-off is not caused by or through any fault or negligence of the property owner.

Reconnection may be performed by active Utility Board Members, Water Systems Manager, and the Water System Technician. The customer must have proof of payment of the re-connection fee, and proof of the establishment of a payment plan on their account from the Accounting Department.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 243. Public Water Use Requirements**

The owner of each lot or parcel of real property within the area served by the tribal water system is hereby required at his or her expense to connect such facilities to the community water system in accordance with the provisions of this article under the following condition. The community water system is within 200 feet of any dwelling, business or water using activity and to which service by such public or community water is available. Such installations and connections must be made within 60 days after the date of mailing or personal service by the Utility Board addressed to the owner of the property to be served notifying such owner to make such connection unless such time shall be extended by the utility.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 244. Obtaining Service Without Authorization**

No person shall obtain services from the Utility Program without authorization. Any person who obtains such unauthorized services by connection to the Utility Program facilities without authorization or by bypassing or tampering with any meter shall be liable to the Utility Program for three times the value of the actual service obtained in addition to the cost of correction.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 245. Future Services**

At some future date the Utility Board may assume responsibility to provide sewage, electrical, gas, telephone, cable TV or other services.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 246. Maintenance Schedule**

The Utility Board shall develop and follow a regular schedule of maintenance service for each utility service provided.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 247. Personnel**

The Utility Board shall have the full authority (within Tribal personnel policies and procedures) to hire, evaluate and discipline or fire if necessary the personnel required to manage operate and maintain the Utility Program. Existing Tribal Staff may be used and employed by the Utility Program to provide necessary maintenance and management services through agreements approved by the General Council and the Utility Board. The specific personnel policies of the Tribe shall be followed. Job descriptions for all employees will be developed and followed.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 248. Purchasing**

The Utility Program system Manager may make or approve purchases from the petty cash fund for amounts up to \$500.00. Above this amount, the Utility Board Chairperson must have approval and disburse funds according to appropriate sections of this Chapter. An accurate account and receipts of all expenditures shall be kept.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 249. Equipment**

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

Utility Program tools and equipment are not for personal use. A record of tools and the individual to whom they were assigned shall be maintained. An inventory of tools, costs and conditions will be kept on file. Individuals will be held responsible for the security of tools and supplies that are assigned to them.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 250. Inventory and Depreciation**

An accurate inventory and depreciation schedule of tools, equipment, and supplies will be maintained. It shall be kept up to date.

A reserve supply of repair and regularly used supplies will be maintained by the Utility Program. A listing shall be kept of local suppliers of repair parts, replacement equipment and expendable supplies.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 251. Public Relations**

The Utility Board shall keep customers notified about changes in fees and rate schedules, water quality regulatory compliance, levels of service and any other information which may affect customers. Notices may be included in monthly billing statements or may be disseminated to the public through separate mailings, tribal newspaper or posting throughout the community.

Any person filing a complaint or seeking information shall be given assistance in a courteous manner. Complaints may be presented in writing to any Utility Board member for resolution and action. The Utility Board will attempt to resolve such complaints at the next regularly scheduled meeting of the Board Members. The Chairperson may call a special meeting of the Board Members to resolve complaints as deemed necessary.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 252. Emergency Notification**

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

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

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 253. Staff Training**

All employees that are newly assigned to operate the utility systems shall receive instruction from an experienced operator. A minimum of 32 hours of instruction should be received before the new employee assumes responsibility for operations.

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

A training plan for the water system operators shall be developed which will provide for upgrading of knowledge and skills in water utility operations, maintenance and management.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 254. Limits of Responsibility**

The Utility Program shall not be responsible for, nor shall it maintain or repair, any private or domestic water or sewer system, garbage, roads or lighting except by specific agreement establishing fair rates of compensation to the Utility Program. Such agreement must be approved and signed by the Utility Board. The utility program shall not be responsible for any loss or damage beyond its control resulting from any defect in, or damage to, a customer's water or sewer lines or fixtures, garbage storage facilities, driveways or parking lots, hydrants or lighting.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 255. Right of Entry - Inspection**

The Water Board, or its authorized representative, is hereby authorized to make limited, reasonable inspections, at reasonable times, of any grounds, building or residence served by the Utility Program to the extent necessary to insure that customer utility fixtures, lines and equipment are not being operated in a manner that would likely disrupt or interfere with utility services. Except in cases of emergency where life, limb, or property are threatened, or in cases of immediate water shortages, the Utility Program shall give the customer at least 24 hours' notice prior to requesting permission to enter an inspect. If permission to inter and inspect is denied or impeded in any way, the Utility Program shall obtain a court order authorizing such entry and inspection. Where the permission to enter and inspect is unreasonable withheld, the Utility Program may assess court costs and related expenses and add them to the affected customer's bill.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 256. Disruption of Service**

The Utility Program may shut off water service, or disrupt traffic on the public right-of-way to perform repairs, provided that advance notice has been given to affected customers. Provided, however, that in cases of emergencies where loss of life, limb or property is threatened, or in cases of immediate water shortage service may be disrupted without advance notice. The Utility Program shall not be responsible for consequent damage as a result of lack of water during authorized disruption of service.

The Utility Program shall not be liable for any associated damages or delay caused by the breaking or leaking of any pipe, valve, fixture or other contrivance as a result of the lack of water

or sewage to or from any mains, services, hydrants, lines or reservoirs during authorized disruptions of service.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 257. Permits**

No connection, reconnection with, dissections from, or other private uses of any water or sewer system, road, appurtenance or other utility service or facility shall be made without a written permit by the Utility Board.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 258. Water Shortage - Service Preference**

In cases of a water shortage proclaimed by the Utility Board, the Utility Program shall regulate the amount of water any customer may be allocated. The Utility Board also may give preference to the customers and/or amounts of water to be allocated, provided the Utility Board allocates water according to public necessity and convenience, and provides for fair allocations between customers.

Any customer violating a legal allocation may have his/ her water service discontinued. Service shall be resumed only upon payment of the approved re-connection fee and penalties.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 259. Unnecessary Waste of Water**

The Utility Board reserves the right to assess a penalty and/or terminate customer's service when the customer has repeatedly, unduly wasted water. Such undue waste is evidence by the fact that hydrants, taps, hoses and other fixtures are permitted to run continuously when not in productive use where such condition is not corrected within 24 hours' after receipt of the notice. Service shall be resumed only after correction of the condition causing wastage of water and payment by the customer of the approved re-connection fee, penalties and any other accounts in arrears to the Utility Board.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 260. Conservation of Resource**

The Utility Program shall conduct operation, maintenance and repair services in a manner that will maximize the conservation of natural, financial, and property resources. Customers of the Utility Program shall be encouraged to conserve water to secure the comfortable, healthy and aesthetically pleasing lifestyle the Tribe enjoys. The Utility Program may offer assistance and

service to customers for water conservation and other material resource conservation and recovery as determined to be feasible by the Utility Board.

New or existing homes or buildings not connected to the Community Water System, at the time of the adoption of this Chapter, shall not be allowed to connect to the Community Water System unless the said facilities are equipped with the following: 2 GPM (gallons per minute) shower heads; 2 GPM kitchen faucets or aerators; 1 GPM urinal, (if applicable); 1.5 GPM lavatory faucets or aerators; 1.6 GPF (gallons per flush) Ultra low flow toilets.

All applicants for new service must show proof that the above (if applicable) approved devices are installed prior to connection to the system.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 261. New Customers Services**

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

- a. Facilities and resources are adequate to meet additional load;
- b. New customer agrees to adhere to this Chapter; and
- c. Approval by the Utility Board

(b.)[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 262. Conditions For Service Payments**

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

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 263. Maintenance; Repairs; Liability**

The customer shall be responsible for maintaining and repairing water and sewer lines located on or in the customer's grounds, building or residence in compliance with applicable regulations. The customers shall notify the Utility Program in advance of major maintenance or repairs planned for water or sewer lines. The customer shall permit the Utility Program to inspect the work for compliance with applicable regulations. The customer shall be liable for any damage to the Utility Program's lines, equipment or other property caused by the customer, his family, guests, tenants, agents, employees, contractors, licensees or other persons under the customer's control or authority.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 264. Customer Termination of Service; Abandonment**

A customer planning to vacate any grounds, building or residence served by the Utility Program shall notify the Utility Program in writing one week prior to the date the customer planned to either vacate or terminate service, whichever is later. A customer who fails to give notice is responsible for all charges accrued up to one week after notice is received by the Utility Program, or up until service is terminated whichever comes first.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 265. Water Shortages**

During water shortages declared by the General Council, the customer shall limit the use of water according to allocations recommended by the Utility Board and established by General Council.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 266. Inspections**

The customer shall not unreasonably withhold permission for the Utility Program to enter and inspect the Utility Program's and customer fixtures, lines and equipment when necessary to ensure that they are operating in a manner that would not likely disrupt or interfere with utility services. The customer shall be liable for any costs or related expenses caused by unreasonable withholding of permission.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 267. Permits**

The customer shall obtain written permission from the Utility Board prior to making any connection, re-connection with, disconnection from, or other private use of any private use of any Utility Program water or sewer system, road, appurtenance, or other utility service or facility. The customer shall obtain written permission from the Utility Board prior to constructing any private water or sewer system, or other private utility.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 268. Cross-Connections**

The customer shall not make a cross-connection with the Utility Program supply. A cross-connection is defined as any physical connection between the Utility Program system and another piping system, either water or waste. Any individual source must be totally disconnected

from the household plumbing prior to connection to the Utility Program supply. "Disconnection" done solely by a valve shall not be allowed.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 269. Hazardous Waste Disposal**

No customer shall dispose of any toxic, radioactive or otherwise hazardous waste into any Utility Program or private sanitary or storm sewage system. Hazardous and toxic wastes include but are not limited to: oil, pesticides, gasoline, organic solvents, paint poisons and other manufactured chemical compounds.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 270. Fee Schedule Establishment**

The schedule of fees for utility services shall be set annually by the Utility Board by regulation. The fee schedule will be based on the estimated average annual costs for operation of all utility services. The fee schedule shall include a basic rate for all services. Payment of which shall be required of each customer regardless of whether, or the extent to which, the customer uses any of the services, and; other fees, charges, penalties and assessments which the Utility Board is authorized to levy as provided under various sections of this Chapter. The Fee schedule may be adjusted as needed to meet utility operating expenses.

The following initial charges, paid monthly and revisable by the Utility Board, shall be levied against users of the Seminole Nation Indian Reservation Community Water System:

The Utility Board may authorize incentives for pre-payment such as: pay twelve months in advance, get one month free; volunteer service in lieu of money; and discount for on time payment.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 271. Notice To Customers**

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

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 272. Billing Responsibility**

The Utility Board and/or Utility Program is responsible for billing customers for Utility Services. The billing service, however, may be contracted to the Tribe, Housing Authority, or other agency or firm at the discretion of the Utility Board and General Council.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 273. Monthly Statement**

Each month the Utility Program shall mail to all utility customers a statement detailing the following information:

- (a) The customer's name and account number;
- (b) The types and levels of service used in the current month;
- (c) The billed cost of the current month's service, plus an accounting of bills or charges past due;
- (d) The date that payment is due; and
- (e) The location to mail or deliver payment.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 274. Due Date**

The monthly date on which payment will be due shall be established by Utility Board regulation.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 275. Payment Past Due**

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

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 276. Delinquent Account**

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

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 277. Notice of Delinquency**

The Utility Program shall immediately notify the customer in writing once the account has been declared delinquent, and list the sanctions that may be imposed without further notice. Notice of delinquency shall be made by certified mail or such other means to provide proof of receipt by

the customer. If a customer feels the notice is incorrect or is aggrieved by the action of the Utility Board they can file a written grievance with the Utility Board as stated in section 237.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 278. Advance Deposits**

The Utility Board may require each new customer to pay an advance deposit equal in amount to the basic monthly rate fees for the first month of service, prior to receiving services. The deposits shall be retained by the Utility Board no longer than one year. The deposits, with interest compounded at passbook rates, shall be credited to the individual customer's utility account balance at the end of the deposit period, providing that the customer's account is not delinquent or in arrears. Any remaining deposit funds will be credited to the customer's account.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 279. Authority and Enforcement**

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

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 280. Attachment of Customers Property**

The Utility Board shall not seek to attach customer's property, nor seek to have fines assessed by the Seminole Nation District Court, except in limited cases of blatant or continued abuses or destruction of property.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 281. Penalty Schedule**

The Utility Board shall develop and recommend a penalty schedule for adoption by General Council which outlines specific penalties, fines and assessments for violation and non-compliance with the provision of this Chapter. The penalty schedule shall be reviewed for appropriateness annually by the Utility Board.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **Section 282. Sanctions Authorized**

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

- (a.) Termination of service(s)
- (b.) Assessment of penalties based on a penalty schedule adopted by regulation of the Utility Board;
- (c.) Assessment of late charges based on a schedule adopted by regulation of the Utility Board;
- (d.) Assessment of damages resulting from the customer's non-compliance;
- (e.) Forfeiture of all or part of a deposit and any accumulated interest;
- (f.) Filing suit for damages in a court of competent jurisdiction; and
- (g.) Referring violation that may involve criminal conduct to the Tribal Lighthorse, Attorney General or tribal prosecutor.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **Section 283. Sanction Guidelines**

The Utility Board shall use the following guidelines when considering the appropriate sanctions to be imposed in any given case:

- (a.) Whether the sanction is required by this Chapter or other applicable law, or whether imposition is discretionary;
- (b.) The minimum sanction needed to effect compliance;
- (c.) The irreparable harm to the customer and/or family if the sanction is imposed;
- (d.) The irreparable harm to the operation of the Utility Program, and to the Tribe, if the sanction is not imposed;
- (e.) The customer's past record of compliance or non-compliance, or good faith efforts to achieve compliance;
- (f.) The customer's statement or behavior indicating the likely success of a given sanction securing compliance;

- (g.) The irreparable harm to other persons or property if the sanction is not imposed; and
- (h.) The effectiveness of similar sanctions in securing compliance in other cases.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 284. Validity, Severability**

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

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 285. Amendments**

The Seminole Nation General Council has the power to amend this Chapter at any time. The General Council shall act upon proposed amendments to this Chapter, submitted for action by the Utility Board, by approval or disapproval of such proposed amendments.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 286. Suspension of Chapter**

No employee, officer, contractor or agent of the Seminole Nation is authorized to suspend or alter any of the provisions of this Chapter without the formal approval of the Seminole Nation General Council.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 287. Emergency Response Plan**

An Emergency Response Plan (ERP) shall be prepared and maintained by the Utility Program and include in Appendix A to this Chapter to guide personnel response to ordinary and unusual system malfunctions. The ERP shall consist of a Vulnerability Assessment, Contingency Plan, and Emergency Response Procedures. The ERP shall include standard operating procedures, emergency alert rosters, lists of equipment supplies, technical representative, adjacent utilities, and special need customers (e.g. Kidney dialysis users). Proper staffing, training, and communications shall be maintained as well as maintenance of a suitable repair parts inventory.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 288. Conflict of Interest.**

No member of the Utility Board shall participate in the hearing, deliberation, application process, grievance, or selection of a project that is located within two miles of their residence or business interest.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 289. Use of Roads and Right-of-ways.**

The Public Utility Board shall have the right to use the public roads and highways of the Seminole Nation, including the right-of-way and all easements pertaining thereto, for telecommunications, electric works, gas distribution, water works and sewage disposal facilities.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 290. Grant Authorization.**

The Utility Board is hereby granted authority from the Seminole Nation General Council to pursue funding from any state, federal, tribal or private granting authority, agency, or foundation. The Utility Board is specifically authorized and requires no additional approval or authority from the Seminole Nation General Council prior to application or acceptance of grant funding awards. All funding agencies shall recognize this law as sufficient authorization from the Seminole Nation of Oklahoma to pursue funding at any time from their respective agency, and shall broadly construe this instrument to meet that end. The Chairperson of the Utility Board, or his or her designee, is hereby authorized to sign any grant applications, award acceptances, certifications, assurances, and any other necessary and related grant funding documents, contracts or agreements.

**TITLE 20**  
**SEMINOLE NATION WATER CODE**  
**CHAPTER THREE**  
**GENERAL PROVISIONS**

**Section 101. Declaration of Purposes; Assertion of Authority.**

In order to provide for a permanent homeland for the Seminole People; to protect the health, the welfare and the economic security of the citizens of the Seminole Nation; to develop, manage, and preserve the water resources of the Seminole Nation; to secure a just and equitable distribution of the use of water within the Seminole Nations through a uniform and coherent system of regulation; and to provide for the exercise of the inherent sovereign powers of self-government by the Seminole Nation, the Seminole Nation hereby asserts its sovereign authority over all actions taken within the territorial jurisdiction of the Seminole Nation which affect the use of water within the Seminole Nation.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 102. Application of the Code**

Upon the effective date of this Code, it shall be unlawful for any person within the territorial jurisdiction of the Seminole Nation, to impound, divert, withdraw, otherwise make any use of, or take any action of whatever kind affecting the use of water within the territorial jurisdiction of the Seminole Nation unless the applicable provisions of this Code and regulations and determinations made hereunder have been complied with. NO right to use water, from whatever source, shall be recognized, except use rights obtained under and subject to this code.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 103. Nature of Ownership**

(a) The Seminole Nation is the owner of the full equitable title to all of the waters of the Seminole Nation as defined in Section 104 of this Subchapter, and that title resides undiminished in the Seminole Nation; the United States holds the legal title to those waters solely as trustee for the Seminole Nation.

(b) All rights to the use of the waters of the Seminole Nation are held subject to the overriding, prior and supreme rights, interests and governmental authority of the Seminole Nation, and the policy and provisions contained in this Code, amendments hereto, and administrative regulations and determinations hereunder.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **Section 104. Waters of the Seminole Nation Defined**

The waters of the Seminole Nation are defined as: (1) all waters reserved at any time for any purpose to the Seminole Nation, and to Seminole Indian lands by the Seminole Nation or by the United States including any waters which, in the course of nature or as the result of artificial works or artificial streamflow enhancement or weather modification methods, flow into or otherwise enhance such waters; (2) all waters held by the Seminole Nation through prior or existing use, appropriation, purchase, contract, gift, bequest, or other means of acquisition; (3) all surface and groundwaters which are contained within hydrologic systems located exclusively within the lands of the Seminole Nation of Oklahoma; and (4) all groundwaters located beneath the surface of the lands held in trust by the United States of America for the Seminole Nation of Oklahoma.

### **SUBCHAPTER 2: NOTICE OF ENACTMENT AND EFFECT**

#### **Section 201. Notice Required**

To insure that all persons and entities affected by this Code are given adequate notice of the enactment and effect of this Code, the Director of the Environmental Protection Office shall, within 30 days after the effective date of this Code, provide for public notice of its enactment and effect in accordance with the provisions of this Subchapter.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 202. Contents of Notice**

(a) Such public notice shall contain the following statement, prominently displayed in large, boldface type:

**NOTICE: AFTER JUNE 1, 2013, NO PERSON OR PUBLIC OR PRIVATE ENTITY OF ANY KIND SHALL BE ENTITLED TO TAKE ANY ACTION WITHIN THE TERRITORIAL JURISDICTION OF THE SEMINOLE NATION WHICH AFFECTS THE USE OF WATER WITHIN THE SEMINOLE NATION, UNLESS SUCH ACTION IS AUTHORIZED BY A PERMIT AS PROVIDED FOR BY THE SEMINOLE NATION WATER CODE. NO OTHER WATER USE RIGHTS OF ANY KIND, FROM WHATEVER SOURCE, SHALL BE RECOGNIZED. THE NECESSARY FORMS MAY BE PROCURED FROM THE ENVIRONMENTAL PROTECTION OFFICE. COMPLETE COPIES OF THE SEMINOLE NATION WATER CODE ARE ALSO AVAILABLE AT THE ABOVE ADDRESS.**

(b) In addition to the foregoing statement, the Director of the Environmental Protection Office may include in such public notice additional information deemed necessary in order to assure adequate notice of the enactment and legal effect of this Code.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 203. Notice. How Given**

The Director of the Environmental Protection Office shall give notice of the provisions of this Code as follows:

(a) The notice provided above shall be placed in the Seminole Producer at least once each week over a six-week period.

(b) The notice provided above shall be placed in a prominent and conspicuous location at the Seminole Nation Government Offices and in such other locations as are deemed necessary or appropriate.

(c) The Director of the Environmental Protection Office may take any other steps and post any other notices as is deemed necessary to provide notice of the provisions of this Code.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **SUBCHAPTER 4: WATER RELATED DUTIES OF THE ENVIRONMENTAL PROTECTION OFFICE**

### **Section 401. Information Function**

It shall be the duty of the Director of the Environmental Protection Office to gather for Tribal use and for submission to the Seminole Nation General Council information related to the waters administered under this Code. To this end the Director of the Environmental Protection Office shall:

(a) Collect, organize and catalog existing information and studies available from all sources, both public and private, pertaining to the waters within the Seminole Nation;

(b) Develop such additional data and studies pertaining to water availability, quality, and use as are necessary to accomplish the objectives of this Code;

(c) Solicit public comment, consult the Chapters and obtain expert advice when appropriate;

(d) Investigate water uses and other activities affecting the waters within Seminole Nation to determine compliance with this Code and with applicable regulations, orders, determinations, permits, water quality standards, etc. issued pursuant to this Code;

(e) Investigate water quality when appropriate; and

(f) Develop standards and regulations concerning water quality and water allocation and submit them for consideration and approval by the Seminole Nation General Council.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **Section 402. Enforcement Function**

It shall be the duty of the Director of the Environmental Protection Office to insure compliance with this Code, and with the conditions of all permits, determinations, orders, regulations, plans and other actions taken under this Code, as well as the policies and guidelines expressed throughout the Code. To this end the Director of the Environmental Protection Office may:

(a) Remove, render inoperative, shut down, close, seal, cap, modify or otherwise control methods of diversion, withdrawal, and impoundment, obstructions to the flow of water and other activities adversely affecting water quantity or quality;

(b) Initiate by means provided herein, proceedings for violations of this Code and the actions taken under this Code; and

(c) Enter upon land to inspect methods of diversion, withdrawal and impoundment, inspect other activities affecting water quality and quantity, install and monitor measuring and recording devices when necessary, and compel testimony and data, by Seminole Tribal Court subpoena, if necessary, concerning actions affecting the quality or quantity of the waters administered under this Code.

(d) All enforcement actions shall be subject to the limitations imposed by the Indian Civil Rights Act, 25 U.S.C. § 1301 *et seq.*, and the Seminole Constitution, Article XII, Bill of Rights.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **Section 404. Administrative Function**

In administering this Code, the Director of the Environmental Protection Office may:

(a) Grant, deny, modify and revoke water use permits;

(b) Make determinations of water use rights;

(c) Initiate proceedings to enforce this Code;

(d) Insure, in coordination with other appropriate agencies, adequate water levels in streams, rivers, ponds, and lakes to protect Seminole traditional religious practices, wildlife conservation and other values; and

(e) Enter appropriate orders.

(f) Recommend to the Seminole General Council for consideration, adoption, modification, or amendment such regulations as are deemed necessary to implement this code;

(g) File or intervene in any lawsuit, at the direction of the Seminole General Council, or the Principal Chief of the Seminole General Council;

(h) Make determinations of availability and need as provided for in Subchapter 8 of the Code;

(i) Negotiate for and propose to the Seminole General Council the purchase or sale of real or personal property or other interests;

(j) With the consent of the Seminole General Council enter into administrative agreements, exchange information, and otherwise cooperate with governmental agencies both on and off the Seminole Nation lands, for appropriate purposes including the administration of interstate streams and groundwaters;

(k) In cooperation with the other committees of the Seminole General Council, determine existing and foreseeable uses of and needs for water and other related resources; and

(l) Take other actions as provided for in this Code.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 303. Water Reserves**

In connection with a determination of availability and need, as provided for in Subchapter 8 or in connection with other actions taken under this Code, the Director of the Environmental Protection Office may establish within particular areas dependent on common water supplies, reserve water supplies which, although subject to existing uses on an interim basis, are set aside for a definite or indefinite term of years for future Tribal and other needs.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 304. Water Assessments**

Whenever the Director of the Environmental Quality Office determines that water not presently available is necessary for purposes and projects beneficial to a part or all of the Seminole Nation and the inhabitants thereof, the Director of the Environmental Quality Office may assess individual water users a fair share of water, in predetermined units for such purposes, according to the relative priorities of the classes of uses.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 305. Designations of Local Management Areas**

The Director of the Environmental Quality Office may, upon the recommendation of other Tribal Departments or any person, isolate and define, within the surface and groundwater systems in which individual water uses are to some degree related by reason of common supply, "local management areas," such as municipal water districts or irrigation districts, for specialized administration under regulations adopted pursuant to this Code.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 306. Large User Water Permits**

The Director of the Environmental Quality Office may, at his/her option or upon application, recommend for consideration by the Seminole General Council the granting of water use permits for amounts in excess of 1000 acre-feet per year and/or for uses which require assurance of long-term supply. Such permits may be conditioned upon payment of consideration and contain other contractual terms including but not limited to, limited periods of times of use, differing conditions of revocability or terminability; and other conditions providing varying degrees of permanence.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 307. Charges for Water Uses**

Reasonable charges may be imposed by regulations of the Environmental Quality Office for the use of the waters of the Seminole Nation. Such charges shall not apply to domestic uses, stock watering uses, fish and wildlife uses and irrigated agriculture uses. Additional charges may be imposed on users by regulations of the Environmental Quality Office for the operation and maintenance of water delivery systems. Waivers of charges may be granted by the Director of the Environmental Quality Office, if the use is shown to be of benefit to the Seminole Nation.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **SUBCHAPTER 5: GUIDELINES FOR ADMINISTRATION**

### **Section 501. General Policy Provisions**

In taking any action under this Code, the Director of the Environmental Protection Office shall be guided by the following basic policy guidelines:

(a) Whenever practicable, actions taken should benefit the Seminole Nation and the members of the Seminole Nation of Oklahoma and further the objective for which the Seminole Nation was created: to provide a permanent home and abiding place for the members of the Seminole Nation of Oklahoma, both now and in the future. Alternatives to existing and proposed uses are to be considered whenever practicable in order to achieve this goal. Included in those alternatives shall be the option to restrict or prohibit entirely any further use of water for the benefit of the Seminole Nation. If there is presented to the Director of the Environmental Protection Office a conflict between water uses for the benefit of the Seminole Nation or any of the members of the Seminole Nation of Oklahoma and non-Tribal projects or uses, the Director of the Environmental Protection Office may grant such preference as may be required by this Code, and lie in the best interests of the Seminole Nation of Oklahoma and its members.

(b) In taking any action under this Code which may impose substantial economic hardship on persons or entities presently using water, or which threatens degradation of other economic, cultural, religious, historic, aesthetic, natural or environmental values, the Director of

the Environmental Protection Office shall, in reaching his/her decision, carefully consider and weigh;

1. The economic dislocation and hardship which will be imposed by such actions;
2. The investment in time, money and other resources made by the parties affected in reliance upon any previous system of distribution and use of water;
3. Any other burdens as may be imposed by such action;
4. The nature and extent of degradation of other economic, cultural, religious, historic, aesthetic, natural or environmental values.

(c) The Director of the Environmental Protection Office, when considering a proposed action, shall balance the adverse effects against the benefits to the Seminole Nation of Oklahoma and other interests which are advanced as justifying the proposed action; shall consider alternatives to the proposed action which will lessen adverse effects, and shall shape any final action so that its adverse effects will be minimized to the greatest extent possible, to protect the water resources.

(d) When insufficient water supplies are present for whatever reason or term, the following priority of uses shall be considered in the order in which they are listed:

1. Domestic and Municipal Uses;
2. Stock Watering Uses;
3. Agricultural Uses;
4. Instream Needs, for Fish, Wildlife Conservation and Recreational Uses;
5. Economic Development Uses including Industrial and Power Uses;
6. Other uses.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 502. Guidelines for Making Most Effective Use of Available Resources**

In addition to the policy guidelines contained in the previous section, the Director of the Environmental Protection Office shall take appropriate actions to:

- (a) Insure adequate water supplies;
- (b) Maintain water levels for diversion and withdrawal systems;
- (c) Maintain head and pressure in ground waters;

- (d) Prevent or reduce obstruction of surface water flows;
- (e) Increase efficiency of conveyance systems; increase efficiency in water application; increase return flow; prevent waste and maximize use of the available supply;
- (f) Create and enhance the efficiency of natural and artificial surface and underground storage;
- (g) Enhance natural and artificial recharge of aquifers;
- (h) Define and control interbasin transfers of both surface and ground waters;
- (i) Provide for some degree of overdraft from aquifers when short-term recharge is not possible;
- (j) Minimize interference between competing users of water sources, whether above or below ground;
- (k) Minimize water quality degradation and the adverse effects of water pollution whether from point sources or non-point sources;
- (l) Minimize thermal degradation or the adverse effects of thermal degradation;
- (m) Minimize interaquifer communication;
- (n) Plan for long-term water development;
- (o) Penalize misuse;
- (p) Otherwise insure conformity with the policies and provisions of this Code.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 503. Additional Policy Guidelines**

(a) Rivers, streams, lakes and ponds within the Seminole Nation are to be retained substantially in their natural conditions, with the base flows and water levels necessary to provide for preservation of traditional and religious, recreation, wildlife, fish, scenic, aesthetic, and other environmental values, to the extent possible. Withdrawals of water which would conflict with these interests should be authorized only where it is clear that overriding considerations of the public interest and welfare will be served.

(b) Multiple-purpose impoundment structures are to be preferred over single-purpose structures. Due regard shall be given to means and methods for protection of recreation, fish and wildlife resources in the planning for and construction of water impoundment structures and other artificial obstructions.

(c) Individuals, corporations, groups, associations and other entities shall be required to carry out reasonable practices of water and resource conservation and environmental protection as they relate to the use of waters within the Seminole Nation.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **SUBCHAPTER 6: DESCRIPTIONS OF USE AND APPLICATIONS FOR PERMIT**

### **Section 601. Existing Use Inventory**

In order to determine existing uses of water within the Seminole Nation of Oklahoma, the Director of the Environmental Protection Office shall cause an inventory of existing water uses to be made and completed within four (4) years following the effective date of this Code. The inventory shall be based upon the information contained in the Descriptions of Use.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 602. Description of Use - Required**

All persons desiring to continue to operate existing uses must file a Description of Use, as required by this Subchapter, within two (2) years of the effective date of this Code. After such date, it shall be unlawful to continue to operate any user or to continue any other action within the jurisdiction of the Seminole Nation of Oklahoma which affects the waters therein except as authorized by this Subchapter. Individuals or groups making use of a well or other water source operated by another need not file a Description of Use unless the operator fails to do so.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 603. Application for Permit - Required**

Upon the effective date of this Code, all persons desiring to initiate new uses of, or take other actions within the jurisdiction of the Seminole Nation affecting the waters therein shall file an Application for Permit as required by this Subchapter. After such date, it shall be unlawful for any person to make any new use or take any other action within the jurisdiction of the Seminole Nation affecting the waters therein except as authorized by this Code.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 604. Description of Use and Application for Permit - Contents**

Descriptions of Use and Applications for Permit shall be on forms provided by the Director of the Environmental Protection Office and shall include the following information:

- (a) The name and mailing address of the claimant;

(b) The name, if available or a description of the source or sources from which water is or will be diverted or withdrawn;

(c) The purpose or purposes for which water is or will be used;

(d) The quantity of water which is or will be used;

(e) A legal description, if such is readily available, and other descriptions reasonably describing the point or points of diversion, withdrawal or impoundment;

(f) A description of the method or methods of diversion, withdrawal or impoundment. The description of the method or methods of ground water withdrawals shall be by a Drilling Permit on a form approved by the Director of the Environmental Quality Office;

(g) A description of how water is or will be applied or consumed, including acreage and crop if the water is for irrigation; the kind and number of stock if the water is for stock watering; and the number of people and/or homes to be served if the water is for domestic or municipal use;

(h) The best estimate reasonably possible of return flow to the source or sources, including how, when, at what point or points, and with what changes in quality and temperatures;

(i) The estimated date on which the use or uses began or will be commenced;

(j) If any pre-existing use is claimed, a description of any documents or programs upon which it is based; any statute or statutes or legal doctrine upon which the use is based; and any pertinent litigation creating or affecting the use;

(k) The water user's plan for future development of the water use or uses and related activities; and

(l) Any other information deemed necessary by the Director of the Environmental Quality Office.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 605. Interim Permits**

A Description of Use which is made with respect to a use existing prior to the effective date of this Code shall, until a permit is issued or denied, serve as an interim permit authorizing the use of a reasonable quantity of water for the uses described and actually made while the application is pending. Additional uses planned but not commenced prior to the effective date of this Code may be made on an interim basis upon Emergency Certification by the Director of the Environmental Protection Office until a permit covering such uses is issued or until other action is taken under this Code.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **Section 606. Fees**

Each Application for Permit shall be accompanied by a \$25.00 filing fee. Provided, however, that the Director of the Environmental Protection Office may waive payment of such filing fee in cases of demonstrated financial hardship. There is no fee for filing a Description of Use.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **Section 607. Public Notice of Descriptions of Use and Applications for Permit - Initial Notice**

As soon as possible and no more than three years after the effective date of this Code, the Director of the Environmental Protection Office shall divide the Seminole Nation of Oklahoma into hydrologic basins or watersheds in which water uses are to some degree interrelated and prepare:

- (a) A map of the Seminole Nation showing such basins or watersheds;
- (b) A listing for each basin or watershed of each use described and permit applied for, which listing shall include names and addresses of applicants, descriptions of water sources, quantities applied for, points of diversion, withdrawal or impoundment, methods of diversion, withdrawal or impoundment and descriptions of the uses to be made;
- (c) A statement that the applicants described in the listing have applied for permits under the Seminole Nation Water Code and that any persons claiming that their uses may be adversely affected by the issuance of such permits may object to their issuance in accordance with the provisions for objection, notice and hearing provided for in this Code;
- (d) A brief description of the objection, notice and hearing provisions of this Code and information which will assist the objecting parties in procuring the necessary forms and commencing an objection;
- (e) A statement that any person may comment either orally or in writing on the issuance of any permit; and
- (f) A brief description of the public comment and investigation sections of this chapter. The map, listings, statements and descriptions prepared under the preceding paragraphs shall forthwith be published and posted in the same manner as provided in Section 203 "Notice - How Given," subject to the following exceptions: (1) maps and descriptions of objection procedures may be omitted if deemed impractical; (2) newspaper publications may be limited to four weekly notices; and (3) listings need be published and distributed only in the hydrologic basins or watersheds affected by proposed or existing uses.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **Section 608. Public Notice of Applications for Permit - Continuing Operation**

When additional Applications for Permit are received during the course of the administration of this Code, the Director of the Environmental Protection Office shall, in conformance with the preceding section:

(a) Include in the listing provided for in Section 607(b) the necessary information concerning the new use or action.

(b) Prepare a statement that one or more new Applications for Permit have been made and objections may be made to them in accordance with Section 607(c).

(c) Prepare the descriptions and statements provided in Sections 607(d), 607(e) and 607(f).

(d) The revised listing, statements and descriptions provided for in the preceding paragraphs shall forthwith be published, posted and mailed in the affected area in the same manner as provided for in Section 607, in order to assure adequate notice and an opportunity for hearing to persons who may be adversely affected by the proposed uses or actions.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **Section 609. Objections Affecting Descriptions of Use and Applications for Permit**

Any person or entity whose interests are or may be affected by a water use described and/or applied for, may within 30 days from the date of publishing, and posting of notice that such use has been described and/or applied for, file a formal objection to the issuance of the permit applied for.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **Section 610. Form and Contents of Objections**

(a) Objections may be made on forms prepared and made available by the Director of the Environmental Protection Office and shall include the name and mailing address of the party objecting; the name of the applicant whose application is objected to; a description of the water use objected to; a short and plain statement or reasons why a permit should not be issued or should be issued in a form different from that applied for; and any suggested conditions or other provisions which should be included in any permit granted.

(b) Oral objections may be made to the Director of the Environmental Protection Office when it is determined by the Director that the circumstances permit an oral objection. Such oral objections shall be reduced to writing on the proper forms by the Director of Environmental Protection Office.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 611. Reply by Applicant**

Any applicant for a permit whose use is objected to, may reply in writing or orally in the same manner as provided herein for objections.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 612. Hearings Regarding Issuance of Permits**

Any applicant directly affected or any party objecting in accordance with this Subchapter may request and obtain as a matter of right a hearing on such objection. In addition, the Director of the Environmental Protection Office may schedule a hearing concerning the issuance of a permit or permits on their own motion whenever they determine that such hearings are needed. Provided, that whenever possible hearings concerning proposed or existing uses in a particular basin or area shall be consolidated to promote efficiency, minimize expense or hardship, and prevent duplication. Unless otherwise provided for in this Subchapter, notice of such hearings shall be as provided for in Subchapter 10, and shall be given to: the applicants whose uses are objected to; the objecting parties; other persons designated by the objecting parties and applicants; all other persons affected by the proposed use in question and all other persons requesting notice. Unless otherwise provided for in this Subchapter, hearings shall be conducted as provided in Subchapter 10.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 613. Public Comment**

Any person or entity may comment orally or in writing upon the proposed issuance of any permit under this Code. It is the policy of the Seminole Nation of Oklahoma that all interested parties be given the opportunity to participate in the decision making process as set forth in this Code.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 614. Investigation and Review of Permit Issuance**

In addition to gathering information from the objections, comments, and hearings as provided for above, the Director of the Environmental Protection Office may make any reasonable investigation of the facts and circumstances surrounding the permit application; may solicit comments and information from the public and from appropriate governmental agencies; and may otherwise gather information which will assist in making the decision to issue or deny a permit in accordance with the provisions of this Subchapter.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 615. Issuance or Denial of Permits**

As soon as possible after application, hearing, if any, and a reasonable period for public comment shall have passed, and no more than 90 days after the date of the application, if

uncontested, or the hearing, if a hearing is held, the Director of the Environmental Protection Office shall review the comments and information gathered with respect to a specific application and either deny a permit or issue a permit in the form provided for in Subchapter 7.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **SUBCHAPTER 7: WATER USE PERMITS**

### **Section 701. Form**

Water use permits issued in accordance with this Code shall be on a form approved by the Resources Committee.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **702. Information Contained**

Each permit shall include:

- (a) The name and mailing address of the permittee;
- (b) The name of, if available, or a description of, the source or sources from which water is or will be diverted, withdrawn or impounded;
- (c) The quantity of water which will be used;
- (d) The legal description, if such is readily available or other description reasonably describing the point or points of diversion, withdrawal or impoundment;
- (e) A description of the method or methods of diversion, withdrawal or impoundment;
- (f) The purpose or purposes for which water is or will be used;
- (g) A description of how water may be applied or consumed, including acreage and crop if the water is for irrigation, the kind and number of stock if the water is for stock watering, and the number of people and/or homes to be served if the water is for domestic or municipal use;
- (h) The approximate date upon which the use or uses permitted begin or will be commenced; and
- (i) Any other information as is deemed necessary and appropriate.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 703. Conditions**

Each water use permit issued pursuant to this Code shall contain whatever conditions are necessary to insure adequate quality and quantities of water; to otherwise further the purposes, policies and guidelines contained within this Code; and to assist in the effective administration of this Code. These may include, but are not limited to, conditions and limitations concerning:

- (a) The source from which water may be diverted, withdrawn or impounded;
- (b) The quantity of water which may be diverted, withdrawn or impounded during any particular time;
- (c) The point or points of diversion, withdrawal or impoundment;
- (d) The method or methods of diversion, withdrawal or impoundment;
- (e) The purposes for which water will be used;
- (f) The method of application;
- (g) The location and purpose of application, including acreage for crops and number of livestock for livestock watering;
- (h) The quantity and quality of return flow;
- (i) The time period during which water may be used;
- (j) Schedules for diversion, withdrawal or impoundment, including optional rotation schedules;
- (k) Provisions for surface or ground water storage of surplus flows;
- (l) Provisions for increasing the efficiency of diversion, withdrawal or impoundment and application;
- (m) Provisions for maintaining minimum pools and streamflows for fish, wildlife, recreation, aesthetic and Seminole religious values;
- (n) Provisions for insuring minimum pumping and diversion levels with respect both to surface and underground water;
- (o) Provisions designed to maintain head and pressure in ground waters;
- (p) Provisions designed to prevent or reduce obstruction of surface water flows;

(q) Provisions designed to minimize point and non-point source pollution, water quality degradation and thermal degradation;

(r) Provisions designed to enhance recharge of aquifers;

(s) Provisions designed to define and control interbasin transfers of surface and ground waters;

(t) Provisions for some degree of overdraft from aquifers when short-term recharge is not possible;

(u) Provisions designed to prevent or reduce interference between competing users or water sources whether above or below ground;

(v) Provisions to minimize interaquifer communication;

(w) Provisions to insure long term water development;

(x) Any other provisions necessary to insure conformity with the policies and provisions of this Code and actions taken pursuant to this Code.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 704. Entry on Land**

No person shall be authorized to use or otherwise take any action affecting the waters administered under this Code unless he shall consent to reasonable entry upon his land by Seminole Nation of Oklahoma employees engaged in the administration of this Code. Every permit issued under this Code shall contain the condition that no use or other action affecting the waters in question may be made unless the applicant consents to such reasonable entry upon his land.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 705. Effect**

A water use permit issued under this Code constitutes nothing more than Seminole Nation permission to use the water within the territorial jurisdiction of the Seminole Nation, subject to the terms and conditions of the permit, to this Code, and to actions taken pursuant to this Code. No water permit issued hereunder shall be construed as creating or recognizing any right other than Seminole Nation of Oklahoma permission to use water, nor shall any water use permit ripen into any interest other than such limited permission.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **Section 706. Revocability**

Unless otherwise indicated, water permits issued under this Code are revocable by the Director of the Environmental Protection Office in accordance with the policies, purposes, guidelines and procedures established in this Code, and in accordance with the Indian Civil Rights Act, 25 U.S.C. Section 1301 et seq., and the Seminole Nation Constitution, Article XII, Bill of Rights.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **Section 707. Modification**

Water permits are modifiable in accordance with the procedures provided in this Code, and in accordance with the Indian Civil Rights Act, 25 U.S.C. Section 1301 et seq., and the Seminole Nation Constitution, Article XII, Bill of Rights.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **SUBCHAPTER 8: DETERMINATION OF AVAILABILITY AND NEED**

### **Section 801. When Proceeding Available**

Whenever at any time after the Existing Use Inventory is completed an application for a permit covering a new or changed use of, or other action affecting water is made; or a complaint concerning an existing or proposed use, or other action affecting the water is made; and it appears probable to the Director of the Environmental Protection Office that a water supply common to a particular area is or will be used beyond its capacity, or otherwise adversely affected;

The Director of the Environmental Protection Office may initiate a proceeding to determine the availability of and need for water in accordance with the provisions of this Subchapter.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 802. Purposes**

The purposes of a proceeding to determine availability of and need for water under this Subchapter shall be: to evaluate existing and future needs dependent upon a particular supply; to compute with reasonable certainty the characteristics of a particular supply, including quantity, surface and groundwater levels, rates and directions of flow, rates of recharge, out-of-basin sources, pollution, thermal degradation, and other characteristics, at particular locations and times; to explore various methods for increasing supply such as artificial recharge, storage, increased efficiency, alternatives to present uses, alternatives to activities presently requiring the consumption of water; to assist in land use planning in accordance with the policies and actions of the Seminole Nation; and to make available to other tribal, local state and federal agencies and to members of the public information concerning the waters in question.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 803. Notice of Proceeding**

(a) Whenever a proceeding is initiated under Section 801 of this Subchapter, the Director of the Environmental Protection Office shall provide notice of such proceeding in the same manner as provided in Section 1002 to all parties who are using or will use or otherwise affect or rely upon the water supply in question, or will otherwise be directly affected by such proceeding.

(b) Such notice shall state in plain and simple language the reason for initiation of the proceeding; the nature of the proceeding; the geographic area covered by the proceeding; and, as nearly as may be determined, the possible effects of such a proceeding on individual water uses.

(c) The Director of the Environmental Protection Office shall make every reasonable effort to ensure that all persons or entities whose interests are or will be affected by the proceeding have reasonable notice of the nature, scope and possible effects of the proceeding and a reasonable opportunity to prepare for and participate in the proceeding.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 804. Environmental Protection Office - Investigation Initiation**

As soon as the Director of the Environmental Protection Office determines that a proceeding shall be initiated under this Subchapter, he shall define as accurately as possible the area covered by the proceeding and commence an investigation as provided herein.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 805. Environmental Protection Office - Information Gathering**

The Director of the Environmental Protection Office shall initiate an investigation to gather and evaluate all available, pertinent data from whatever sources concerning the water supply and needs for water in question; to formulate proposals concerning the use of the water in question; and to provide other information, alternatives, and recommendations to assist the Resources Committee. Such information, alternatives, and recommendations shall be contained in the report of the Director of the Environmental Protection Office provided for in Section 806 of this Code.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 806. Environmental Protection Office - Report**

Upon completion of the investigation provided for in Section 805, and no more than 90 days after the initiation of the investigation, the Director of the Environmental Protection Office shall transmit to the Resources Committee the report concerning the availability of and need for water in the particular area to which the proceeding applies. The report shall include the following:

(a) A geographic and geologic description of the area studied, setting out as precisely as possible the boundaries of the area;

- (b) A general description of the water supply in that area, from all sources;
- (c) A description of the various characteristics of the water supply which are relevant to present and proposed uses and other actions;
- (d) A computation of the water supply available at particular times and places;
- (e) A description of present and proposed uses of and other actions affecting the water supply in question;
- (f) A description and evaluation of the need for each such present or proposed use or other action;
- (g) A description of possible methods for increasing available water supply;
- (h) A description of economic and technical methods which may be implemented to increase the efficiency of use;
- (i) Alternatives for present uses which will minimize the impacts described in Section 501 of this Code;
- (j) Amounts of water within the particular supply which shall be subject to a reserve as provided in Section 303 of this Code;
- (k) Proposals for assessing varying amounts of water as provided for in Section 304 of this Code; and
- (l) Any additional information and recommendations which the Director of the Environmental Protection Office deems is necessary for inclusion.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 807. Proposed Determination of Availability and Need**

As soon as possible and no more than 30 days after receipt of the report of the Director of the Environmental Protection Office, the Resources Committee shall cause to be prepared a proposed Determination of Availability and Need in accordance with the provisions of this Subchapter.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 808. Determination of Availability and Need - Contents**

A Determination of Availability and Need may include the following, either as recommendations or mandatory provisions:

- (a) A description and map of the affected area;

(b) A description of the water supply in the affected area, including a description of the various characteristics of the supply which are especially pertinent to present and proposed water uses within that area;

(c) A description of the various present and future needs for using or affecting the water supply in the area;

(d) A list of priorities to be observed within the affected area;

(e) A list of storage methods which are or may be proposed and implemented;

(f) A description of methods for increasing efficiency;

(g) A description of possible interbasin transfers; and

(h) Other information, provisions and recommendations or requirements reasonably calculated to inform the affected parties concerning the future management of the water supply in question.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 809. Notice of Hearing**

As soon as possible and no more than 30 days after the drafting of a proposed Determination of Availability and Need, the Director of the Environmental Protection Office shall provide notice, in the manner provided for in Section 803, of a public hearing at which interested persons may present oral or written comments concerning the proposed Determination of Availability and Need. Included in the notice shall be a description and map of the affected area; a description of the proceeding to date and a clear statement that copies of the proposed Determination of Availability and Need shall be made reasonably available to interested persons. The notice shall state the date, time and place for a hearing, to be held not less than 30, nor more than 60 days after the date notice is completed.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 810. Hearing**

A hearing shall be held with respect to every proposed Determination of Availability and Need. Whenever possible, such hearings shall be held in the affected area, at a date, time and place which is reasonably convenient to a major portion of the parties affected. At such hearings, the Resources Committee or its designees shall provide a brief oral statement of the purpose of the hearing and a description of the proceeding to date, including the proposed Determination. At least one member of the Resources Committee shall be present and shall preside over the hearing. After the presentation is made by the Resources Committee or its designees, public comment shall be allowed. Public comment may be limited by reasonable rules adopted by the

Resources Committee to insure an opportunity for full comment. Hearings may be continued if necessary to such times and places as are deemed appropriate upon adequate notice.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 811. Final Determination of Availability and Need**

As soon as possible, and not more than 60 days after the public hearing provided for in Section 810, the Resources Committee shall cause to be prepared a final Determination of Availability and Need. Notice of this final Determination shall be made in the same manner as provided for in Section 803 and shall indicate that copies of the Determination are reasonably available for public review.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 812. Subsequent Actions**

Upon completion of the above proceedings, the Director of the Environmental Protection Office shall make copies of the Determination of Availability and Need made under the provisions of this Subchapter reasonably available to parties requesting the same; shall grant, revoke, deny or modify permits in accordance with such Determination; shall enter appropriate orders and take other actions authorized by this Code to prevent overuse and/or pollution in accordance with such Determination; and shall take whatever other actions are necessary and authorized by this Code to assist in the implementation of the Determination and of the policies, provisions and guidelines set forth in this Code.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 813. Appeal**

Appeals from the final Determination of the Availability and Need shall be taken in the same manner as provided for in Subchapter 11 of this Code.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **SUBCHAPTER 9: TRANSFER AND LOSS OF RIGHTS**

### **Section 901. Transfer, Assignment, Descent, Distribution and Creation of Security Interest**

Permits issued under this Code shall not be subject to transfer, assignment, descent, distribution or creation of any security interest without the express written consent of the Director of the Environmental Protection Office. Applications for transfer, assignment, or creation of a security interest shall be made on forms prepared and made available by the Director of the Environmental Protection Office. Such forms shall be designed to solicit information concerning any substantial changes which will or may occur as a result of the transfer, assignment or creation of a security interest in a water use permit. Every attempt should be made to conform, with the purposes of Subchapter 6 governing Descriptions of Use and Applications for Permit.

Heirs and successors in interests of permittees shall apply for permits in their own names; however, such substitute permits shall be freely granted unless changing hydrological conditions clearly warrant a modification of the prior permits.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 902. Loss By Nonuse**

Any right to use or otherwise affect in any way water within the territorial jurisdiction of the Seminole Nation, regardless of its origin, shall become void and revert, to the extent of the abandonment or nonuse, to the Seminole Nation when the holder of such use right wholly or partially abandons the same, or voluntarily fails without sufficient cause to use all or a portion of the water available under such use right for a period of five consecutive years.

“Sufficient cause” shall include:

- (a) Drought or other unavailability of water;
- (b) Active service in the armed forces of the United State;
- (c) The operation of legal proceedings;
- (d) The application of any laws restricting water use;
- (e) Incarceration in a penal institution;
- (f) Confinement in a mental institution, whether voluntary or in voluntary;
- (g) Incompetence by reason of age or mental incapacity;
- (h) Provisions of future use as provided in this Code; or
- (i) Other causes of nonuse beyond the control of the holder or holders of the use right claimed.

Before such rights to use water may be deemed lost by nonuse or abandonment, the Director of the Environmental Protection Office shall serve notice on the holders of such use rights to appear at a hearing to be held before the Director of the Environmental Protection Office not less than 30 days after the mailing or personal service of such notice and show cause why their use rights should not be deemed void. Such notice and hearing shall be in the manner provided for in Subchapter 10 of this Code governing notice and hearing.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 903. Loss By Adverse Possession, Prescription, Estoppel, or Acquiescence**

No right to use or otherwise affect the quantity, level, flow, pressure, quality, or temperature of water may be acquired by adverse possession, prescription, estoppel or acquiescence.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 904. Outside Proceedings**

No use right granted under this Code may be reduced or taken or otherwise affected in any procedure or determination or adjudication except as provided for in this Code, and in compliance with the Indian Civil Rights Act, 25 U.S.C. Section 1301 et seq., and the Seminole Nation Constitution, Article XII, Bill of Rights.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **SUBCHAPTER 10: GENERAL HEARING PROVISIONS**

### **Section 1001. Applicability**

Unless otherwise provided for in this Code, hearings shall be held in accordance with the provisions of this Subchapter.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 1002. Notice**

All parties who will or may be directly affected by a proposed action shall be given notice by mail of any hearings held under this Subchapter. In addition, notice of hearings shall be published in one paper having general circulation in the affected area and notice of hearing shall be posted in prominent places in the affected area, as set forth in Subchapter 2 of this Code.

Every attempt shall be made to give each party who will or may be directly affected by any action actual notice of that action and fair and adequate opportunity to be heard.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 1003. Time and Place of Hearing**

Whenever possible hearings shall be held at the offices of the Director of the Environmental Protection, at a date, time and place which is convenient for a major portion of the parties affected.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 1004. Continuances**

Continuances shall be freely granted when the ends of justice so require and in order to assure adequate notice and opportunity to be heard.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 1005. Presiding Officer**

The Director of the Environmental Protection Office shall designate a qualified and impartial hearing officer to preside over hearings provided for in this Subchapter.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 1006. Forms of Evidence**

Evidence may be submitted in any practical form including oral testimony, written evidence, and descriptive evidence. The ordinary rules of evidence shall not apply but evidence which is irrelevant, cumulative, unduly prejudicial, or would otherwise be unfairly admitted, may be excluded or admitted only under special conditions or stipulations.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 1007. Consolidation of Hearings**

Whenever possible, hearings concerning proposed or existing actions in a particular watershed or area shall be consolidated to promote efficiency, minimize expense or hardship, and to prevent duplication.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 1008. Recording**

Hearings shall be recorded by mechanical means, provided, that any person may provide at his own expense for a stenographic record.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 1009. Decision**

Whenever a decision is required in accordance with the provisions of this Code following a public hearing, the Hearing Officer shall prepare findings of fact and conclusions of law and shall recommend a proposed decision to the Director of the Environmental Protection Office. The Director may make such modifications as are clearly warranted by the evidence and applicable law and shall issue a final decision, including an explanation for any changes made in any recommendation of the Hearing Officer, within thirty days of such recommendation. Such

decision shall be published and served upon the parties in the same manner as provided in Section 1002 governing notice of hearings.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **SUBCHAPTER 11: APPEALS**

### **Section 1101. Appeals Provided For**

There shall be no appeal from actions taken under this Code except as provided herein. Appeals of final actions shall be to the Administrative Appeals Board of the Seminole Nation according to the Administrative Appeal Boards ordinance.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 1102 Final Action - Jurisdiction**

The Administrative Appeals Board shall have no jurisdiction to hear any appeal initiated pursuant to this Subchapter unless the Appeal is filed with the Administrative Appeals Board within 30 days after the date of the final action. "Final action" means any action taken under this Code for which no further consideration by the Director of the Environmental Protection Office or the Resources Committee is required.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 1103. Notice of Appeal - Service**

Upon filing of the Appeal the party appealing the final action shall forthwith, and no more than 10 days after filing of the Notice of Appeal, cause the Notice of Appeal to be served on all parties to the proceeding being appealed from, and on the Director of the Environmental Protection Office.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 1104. Transmittal of Record**

(a) Upon receipt of the Notice of Appeal, the Director of the Environmental Protection Office shall cause all pertinent documents in their possession, and any other articles of evidence in their possession, to be transmitted to the Administrative Appeals Board.

(b) Any party to an appeal may at his own expense, cause a transcript of any hearings or other proceedings below to be prepared and transmitted to the Administrative Appeals Board. Provided, that the Director of the Environmental Protection Office in his discretion shall bear the financial burden of preparing such transcript when it appears, after good cause shown, that a party is financially unable to do so.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 1107. Scope of Review**

The Court of Appeals, in reviewing the final action appealed from, shall limit its review to the issues and the evidence which were before the Director of the Environmental Protection Office at the time of the final action appealed from. The Administrative Appeals Board may affirm, reverse, modify in whole or in part, or remand for further consideration, any final action appealed from. Provided, final actions appealed from may only be reversed, modified or remanded when they are arbitrary, capricious unsupported by substantial evidence, not in substantial conformity with this Code or otherwise contrary to law.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 1108. Administrative Appeals Board - Additional Powers**

(a) The Administrative Appeals Board may on its own motion or upon motion of any party dismiss an appeal for want of prosecution, gross procedural irregularity, or mootness when the ends of justice so require.

(b) In addition, the Administrative Appeals Board may stay the operation of final actions appealed from, in whole or in part, and may, when the ends of justice require, provide for a supersedeas bond or other security from the parties to the appeal

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

## **SUBCHAPTER 12: DEFINITIONS**

### **Section 1201. Director of the Environmental Protection Office**

Director of the Environmental Protection Office means the Executive Director of the Environmental Protection Office of the Seminole Nation, his designated representative or agent, or his successor in responsibility, as determined by the Chairman of the Seminole General Council.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 1202. Domestic Use**

“Domestic Use” means any use of water for individual personal needs or for household purposes such as drinking, bathing, heating, cooking, or sanitation.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **Section 1203. Effective Date**

The “effective date” referred to herein shall be the date of the resolution of the Seminole General Council approving adoption of this Code.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 1204. Municipal Use**

“Municipal Use” means all reasonable water uses necessary in carrying out the functions of municipal government, local chapter government and growth centers or towns.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 1205. Person**

“Person” includes an individual; a partnership; a corporation, whether public and private; and a governmental entity, unit or agency, whether tribal, local, state or federal.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

### **SUBCHAPTER 13: PROHIBITED ACTS**

#### **Section 1301. Waste of Water Prohibited**

No waters that have been withdrawn, diverted, impounded or otherwise taken pursuant to a valid permit or otherwise shall be wasted. The withdrawal of reasonable quantities of water in connection with construction, development, testing or repair of diversion, withdrawal and impoundment works shall not be construed as waste. In the event of inadvertent loss of water owing to defects in equipment for diversions, withdrawals and impoundments such shall not be construed as waste if reasonable diligence is shown by the permittee in effecting necessary repairs.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 1302. Unauthorized Actions Affecting Waters Prohibited**

Whenever any use or other action affecting the use of waters within the territorial jurisdiction of the Seminole Nation is required by this Code to be authorized under the provisions of this Code, it shall be a violation of this Code to knowingly make such use or take such other action without the authorization required.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

#### **Section 1303. Obstruction of Seminole Nation Employees**

The willful obstruction of or interference with Seminole Nation employees performing their lawful duties under this Code shall be a violation of this Code.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 1304. Misstatement of Material Facts**

The knowing misstatement of any material fact by any person or entity when providing information required by this Code, with respect to Descriptions of Use and Applications for Permit or otherwise, shall be a violation of this Code.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 1305. Sanctions for Code Violations**

Violations of this Chapter may subject the persons(s) or entity(ies) responsible to forfeiture or suspension of rights to the use of water administered under this Code. Sanctions may also include the requirement of payment for water improperly used or adversely affected by the improper use; payment of the costs for all associated remedial actions administrative costs incurred by the Seminole Nation as a result of the violation; and payment of such other costs as are necessary to render the Seminole Nation and its inhabitants' whole. Sanctions shall be imposed by the Director of the Environmental Protection Office subject to the limitations imposed by the Indian Civil Rights Act, 25 U.S.C. Section 1301 et seq., and the Seminole Nation Constitution, Article XII, Bill of Rights.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**SUBCHAPTER 14: MISCELLANEOUS PROVISIONS**

**Section 1401. Severability**

If any provision of this Code or the application thereof to any person or circumstances is held invalid, the Code can be given effect without the invalid provision or application; and to this end the provisions of this Code are declared to be severable.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 1402. Construction**

This Code shall be liberally construed to effectuate its objectives, policies, guidelines, purposes, and provisions.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 1403. Review of Authority**

The Director of the Environmental Protection Office shall, from time to time, review the authority granted to them under this Code and propose amendments and additions thereto to the Seminole General Council in order to improve administration under this Code.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 1404. Extension of Time Limits**

The time limits provided for in various places of this Code may be extended, for good cause shown, by the agency before whom the proceeding is pending when the ends of justice so require.

[HISTORY: Ordinance No. 2013-07, May 14, 2013]

**Section 1405. Representation**

Parties appearing at hearings and other proceedings provided for this Code may represent themselves or may be represented by individuals licensed to practice before the Courts of the Seminole Nation if they so desire.