

**ORDINANCE NO. RV-2001-01**

**UTILITY ORDINANCE**

**OF THE**

**ROUND VALLEY INDIAN TRIBES**

HEREINAFTER REFERRED TO AS  
“TRIBE”

APPROVED BY THE ROUND VALLEY TRIBAL COUNCIL  
April 17, 2001

APPROVED BY RESOLUTION – May 15, 2001

ROUND VALLEY INDIAN TRIBES RESERVATION

UTILITY ORDINANCE

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**Section 1. Purpose**

- (A) The purpose of this Ordinance is to organize and identify the general rules for the operation, maintenance and management of tribal utilities that are currently in existence or anticipated for the future.
- (B) “Utility” refers to the facilities and infrastructure for the production, transmission delivery, or furnishing of services, such as water, wastewater treatment, and power to the public.
- (C) The Ordinance regulates:
  - (1) The use of the tribal water system by residential and commercial consumers, as well as other water uses pertaining to the Round Valley Indian Reservation.
  - (2) The use of public and private sewers and drains, disposal of septage wastes into the Public sewers, and the discharge of wastewater into the tribal sanitary sewer systems.
- (D) “Septage” means sludge, liquid, scum, or other waste from a septic tank, soil absorption field, holding tank, vault toilet, or privy.
- (E) “Wastewater” means the spent water of a community. Wastewater may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, along with other water that is present, but not intentionally admitted, into the system.
- (F) It is the policy of the Round Valley Indian Tribes (“Tribes”) to operate, maintain, and manage the tribal utilities in a financially responsible and cost-effective manner.

**Section 2. Tribal Utility Service**

The Tribe offers the following tribal utilities for a fee:

- (A) Domestic potable water through a tribal community water system.
  - (1) The Tribe’s community water system must be managed in a manner that meets the Standards of the federal Safe Drinking Water Act, the Clean Water Act, and Applicable tribal law.
- (B) The collection and disposal of wastewater through a public sanitary sewer and waste-

water treatment system.

(1) The Tribe provides sanitary disposal of wastewater for those facilities connected to the mainlines of the tribal community sanitary sewer collection system.

(2) The Tribe does not provide pumping and disposal services for septage from private Sewage systems, except by special agreement.

(C) “Sanitary Sewer” means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of ground, storm, and surface waters that are not admitted intentionally into the system.

### **Section 3. Management of Tribal Utilities:**

#### **(A) The Tribal Utility Commission (“Utility Commission”)**

(1) The Utility Commission shall review tribal utility matters and make recommendations to the Tribal Council and the Tribal Utility Department.

(2) The Utility Commission shall review applications for utility service and make service decisions.

(3) The Utility Commission is separate and distinct from the Tribal Council, and whose duties and powers are established through a resolution of the Tribe.

(4) Until that time when the Utility Commission is established by tribal resolution, the Tribal Council serves as the governing body overseeing the regulation of tribal utility services.

#### **(B) The Tribal Utility Department (“Utility Department”)**

(1) The Tribal Environmental Protection Agency (“Tribal EPA”) will serve as the Utility Department.

(2) The Utility Department shall oversee the day-to-day operation and delivery of water to consumers, maintain the operation of the sewer system, and ensure that water quality and sewers systems operations comply with all applicable federal and tribal environmental standards.

(3) The Utility Department has the authority to enter upon any land in performance of its Duties under this Ordinance, without liability.

(C) The Tribal Fiscal Department shall keep the financial records for the water and sewer Utilities Consumer payment for these utilities must be submitted to the Fiscal Department.

### **Section 4. Application Process for Tribal Utility Services:**

- (A) Every person who wants to connect to the tribal utility system shall file a written application with the Utility Commission.
- (1) The applicant must identify the utility services requested and list all uses for those Services on the application for tribal utility services.
  - (2) If the applicant is not the owner of the premises, the written consent of the owner must accompany the application.
  - (3) The application may request utility service to more than one building or more than one unit of services through the use of one service connection. In such cases, the Tribe may require additional charges.
- (B) If the application for tribal utility services is approved by the Utility Commission, the Tribe shall provide the service through the Utility Department if the applicant meets the terms under subsection (1) and (2) below.
- (1) All new consumers and former consumers requesting re-connections after services have been shut off are responsible for payment of connection and re-connection fees to the Tribes. Re-connection fees include administrative fees any previously discontinued utility services.  
  
The Utility Commission will establish separate rates for water and sewer connections and re-connections.
  - (2) The applicant is responsible for providing any infrastructure necessary to make the service connection from the curb stop or other starting juncture of the service connection.
- (C) “Curb stop” is defined as the shut-off for a unit of service from the lateral and mainline of the Tribe’s community water system.
- (D) The Utility Commission may reject an application if it appears that the service requested will not be adequate or appropriate for the uses listed on the application. The Utility Commission may also reject an application if the applicant owes an outstanding unpaid Balance to the Tribe for previous utility service.

**Section 5. Duties of Customer:**

- (A) As a condition for receiving tribal utility services, the consumer agrees to comply with All sections of this Ordinance any other applicable laws or rules, including the requirement for being current in the payment of utility fees or charges assessed by the Tribe.
- (B) The consumer is responsible for maintaining water, sewer, or other utility lines for the service connection from the curb stop or other such start of the service connection.
  - (1) The consumer will notify the Utility Department before beginning major

maintenance or construction work potentially impacting the water, sewer, or other utility lines and connections on the consumer's premises.

- (2) The consumer will permit the Utility Department to inspect such maintenance or construction work for compliance with applicable requirements.
- (3) The consumer will be liable for any damage to the Tribe's utility lines, connections, equipment, or other property caused by the consumer, the consumer's family, guests, tenants, or other third-parties under the consumer's control.

(C) Cross-connections are prohibited. Under no circumstance can the consumer all cross connections with the tribal community water system or community sanitary sewer system on the consumer's premises without getting *prior approval* from the Utility Department. The Utility Department is authorized to immediately disconnect utility services to any consumer who violates the mandatory prohibition against cross-connections. The Utility Commission may also impose additional penalties against violators.

- (1) A "cross-connection" is defined as any physical connection between the Tribe's community water system and another piping system, including public or private sanitary sewer systems or the domestic water systems of other persons.
- (2) Any individual water source, such as a private well, must be totally disconnected from the household plumbing prior to connection to the tribal water systems.
- (3) Disconnections that are done solely by a valve are not allowed.

(D) Excessive use or waste of water is prohibited and repeated violations may be cause for suspension of water services.

(E) "Consumer" is defined as a person or entity using the Tribe's water and sewer utility Services, including both renters and property owners.

#### **Section 6. Duties of the Tribe:**

- (A) The Tribe must maintain utility service and utility facilities and other related infrastructure.
- (B) The Tribe is responsible for maintenance on service lines up to the consumer's curb stop or other starting points of the individual service connection.
  - (1) The Tribe is not responsible for maintenance of utility infrastructure or service lines That are damaged as a result of negligence or carelessness on the part of the consumer. In such cases, the consumer bears the cost of repair.

#### **Section 7. Inspections and Tribe's Right of Entry:**

- (A) Upon notice to the consumer, the Utility Department, or its authorized representative is Authorized to enter any grounds, building, or residence and make reasonable inspections of fixtures, lines, connections, and equipment necessary to ensure that they are operating in a manner that will not disrupt or interfere with the operation of tribal utility services.
- (B) Except in emergencies, defined as any event or situation that jeopardizes the health and safety of residents on the reservation, including cases of immediate water shortages, the Utility Department will give the consumer at least two (2) weeks written notice before entering and inspecting the consumer's premises.
  - (1) If permission to enter and inspect is denied or impeded, the Tribe may obtain a court order authorizing such entry and inspection or take any other action it deems appropriate.
  - (2) Where the permission to enter and inspect is unreasonably withheld by the consumer, the Tribe may assess court costs and related expenses and add these to the consumer's bill.

**Section 8. Emergency Utility Shut-Offs:**

- (A) The Tribal Utility Department may shut off utility service or disrupt traffic on public Right-of-ways to perform repairs of the utility system.
- (B) The Tribe is not liable for any damages or delay resulting from the shut-off of utility services, including that caused by the lack of water.
- (C) The Utility Department will develop an emergency notification plan. The emergency notification plan must notify residents and visitors of the following:
  - (1) Discontinued services for more than eight (8) hours;
  - (2) Substandard conditions in water quality, including bacteriological, chemical, or physical quality deficiencies, in accordance with the Federal Safe Drinking Act; and
  - (3) Any other conditions which may adversely affect the tribal community and residents.

**Section 9. Termination of Utility Services:**

- (A) A consumer who is planning to vacate any grounds, building, or residence served by the Tribe must notify the Utility department in writing prior to the date the consumer plans to either vacate the premises or discontinue service. A consumer who fails to provide notice will continue to be responsible for all charges accrued up to the time when services is terminated.

- (B) The consumer is liable for any damages to utility property discovered when the utility service is terminated and which did not result from the fault of the utility system, the tribal Utility Department, or its representatives.

**Section 10. Limitations on Tribe’s Responsibility:**

- (A) The Tribe will not be responsible for the maintenance or repair of any private or Domestic water, sewer, or other private utility system. Any services provided by the Tribe related to private utility systems will be provided by specific agreement, approved by the Tribe and established by a fair rate of compensation.
- (B) The Utility Department will conduct a “pre-inspection” before installing a new connection or making a re-connection, and will note any pre-existing conditions, including conditions of service pipes.
- (C) The Tribe will not be liable for any loss of damage:
  - (1) That is beyond its control and results from any defect in, or damage to, a consumer’s water or wastewater lines or fixtures, or any other utility-related appurtenances owned or leased by the consumer; or
- (D) The Tribe assumes the risk for treatment by accepting wastewater and septage into its Wastewater utility system, but reserves the right to immediately discontinue acceptance of wastewater or septage for operational or environmental compliance reasons.

**Section 111. Meters:**

- (A) Meters for measurement of tribal utility service must be installed at a unit of service, in accordance with tribal requirements and in such locations as determined by the Utility Department.
- (B) All meters must remain accessible to utility personnel and no person shall obstruct or tamper with any meter.
  - (1) Such obstruction or tampering shall be a violation of this Ordinance and subject the violator to civil penalties and damages under this Ordinance.
  - (2) The consumer at the property on which the meter is located shall be responsible for all damage to or tampering with the turn-off water valve attached to such meter.
- (C) All persons who have premises that are connected to the community water system are Required to install a water meter in order to be considered a unit of service and receive water service. Individual household water meters are owned by the Tribe and it is the responsibility of the Utility Department to maintain such meters.

## **Section 12. Other Uses of Water Services:**

(A) Water for Fire Protection, including services provided by the Mendocino County Volunteer Fire Department.

- (1) There is no charge for the use of hydrants and such quantities of water used for Public fire protection for the Tribe.
- (2) The amount of water used for testing equipment and training personnel must be Metered or estimated by the Utility Department and subject to a volumetric charge.

(B) Water for Construction.

- (1) Applications may be submitted to the Utility Department for the purchase of water to be used for construction purposes, the filling of tanks or other such uses.
  - (a) Such applications must be in writing and include an estimate of the amount of water requested and the work to be done or size of tank to be filled.
  - (b) If the Utility Department approves the application, a permit will be issued to the applicant for the water use.
  - (c) The Utility Department will not provide water for such uses until an application is submitted and a permit has been issued.
- (2) The amount of water used for construction shall be metered or estimated by the Utility Department and subject to a volumetric charge.
- (3) Payment or a deposit for water used for construction may be required in advance.
- (4) No connections may be made to the tribal water utility for construction purposes without the Utility Department's approval.

(C) Bulk Water Purchases.

- (1) All bulk water supplied from the tribal water utility system will be metered or the amount estimated by the Utility Department.
- (2) A service charge will be imposed by the Utility Commission for bulk water purchases in addition to the volumetric charge.
- (3) Bulk water sales include water supplied to the consumer for purposes other than extinguishing fires, such as irrigation.



**Section 13. Requirement for Connection to the Tribe’s Wastewater Treatment System:**

- (A) Using a wastewater treatment system, instead of relying on individual private sewage Systems, help to ensure the protection of human health and the environment. Therefore, the Tribe is interested in having buildings located next to or near the Tribe’s sanitary sewer system connected to the Tribe’s sewer system.
- (B) Therefore, except for buildings that are currently connected to the Mendocino County Wastewater utility system, the Tribe requires that wastewater systems of buildings adjacent to or within 200 feet to the tribal sanitary sewer system be connected to the Tribe’s wastewater utility as follows:
  - (1) All new buildings must be constructed with wastewater systems that are connected to the tribal wastewater system;
  - (2) Existing buildings with private sewage systems, which need replacement or repair, must be hooked up to the tribal wastewater utility, instead of continuing to use a private sewage system.
  - (3) Owners of existing buildings who wish to continue using a private sewage system may do so only after approval by the Tribe.

**Section 14. Environmental Compliance:**

- (A) The Tribe is responsible for obtaining all applicable federal environmental permits necessary for the operation of the tribal utilities.
- (B) Because groundwater is the sole source of drinking water on the Round Valley Indian Reservation, the Tribe has to protect groundwater quality. The Tribe must ensure that the groundwater meets applicable water quality standards set in the Federal Safe Drinking Water Act and the Federal Clean Water Act, as well as under tribal law.
- (C) The Tribe will conduct groundwater monitoring around utility facilities, as needed, to ensure that utilities do not have a detrimental effect on groundwater or other water resources.

**Section 15. Tribal Inspection of Wastewater and Discharge:**

- (A) Wastewater and septage discharge into the sanitary sewers will be subject to periodic Inspection by the Tribe upon obtaining permission from the consumer.
- (B) Samples should be collected so that they are representative of the composition of the wastewater. Sampling methods, locations and times are to be determined on an individual basis, subject to approval by the Tribe, or as required in applicable permit conditions or standards.

- (C) Testing will be the responsibility of the person discharging the wastewater or septage and will be subject to the approval of the Tribe. Every care shall be exercised when collecting samples to ensure preservation in a state comparable to that at the time the sample was taken.
- (D) Measurements, tests and analyses of the characteristics of wastewater and septage that are referred to in this Ordinance shall be done in accordance with A Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and a Guidelines Establishing Test Procedures for Analysis Pollutants (40 CFR 136).
- (E) If any party discharges or proposes discharge of wastewater or septage into the public sewers or the wastewater treatment facility that may have deleterious effects upon the wastewater treatment facility or receiving waters, or which otherwise create a hazard to life, health, or constitute a public nuisance, the Tribe may:
  - (1) reject the wastewater;
  - (2) require pretreatment to an acceptable condition for discharge to the public sewers;
  - (3) require a control over the quantities and rate of discharge; or
  - (4) require payment to cover additional cost of handling and treating the wastewater.

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## **Section 16. Disposal of Septic Tank Sludge**

- (A) No person may transfer septic tank sludge or holding tank sewage into any disposal area or sewer manhole located within the Reservation boundaries unless permission to engage in disposal activities is first obtained from the Tribe. In other words, no “dumping” without prior approval from the Council.
- (B) The Tribe will set rates for disposal of septic tank sludge or holding tank sewage. These rates will be reviewed annually or as deemed necessary by the Tribe.
- (C) Any person disposing of septic tank or holding tank sludge agrees to carry public liability insurance in an amount not less than one-hundred thousand dollars (\$100,000) to protect any and all persons or property from injury and/or damage caused in any way or manner by any act, or failure to act, by any of his employees. The person(s) must furnish a certificate certifying such insurance to be in full force and effect the Tribe.
- (D) Any materials dumped into the wastewater treatment system must be of domestic origin only and must comply with the provisions of this Ordinance and other applicable law.
- (E) The person disposing of the waste must furnish a bond to the Tribe in amount of \$100,000.00 to guarantee performance, unless this requirement is waived by the Tribal

Council. The performance bond shall be delivered to Tribal Council prior to the issuance of the permit.

### **Section 17. Septage Disposal Plan**

- (A) Persons wishing to discharge septage to the Tribe's wastewater treatment works must file a written application for permission and submit a filing fee with the Utility Commission. The application must fully state the type, frequency, quantity, quality and location of generated septage to be disposed at the Tribe's wastewater treatment works.
- (B) The Tribal Council will evaluate the application and make a determination as to the amount and conditions of septage disposal at the wastewater treatment facility.
  - (1) The Tribal Council will grant or deny the permit application and may impose any necessary conditions.
  - (2) Any permit granted by the Tribal Council will be for a one-year period, after which the person must re-apply for a new permit.
  - (3) If the Tribal Council cannot accept all applications, then consideration will be given first to those generators of septage that are within the Reservation.
- (C) All permits for septage disposal includes the condition that any time the wastewater Treatment works has operational problems, maintenance problems or threat of environmental violations related to septage disposal, the Tribe may immediately restrict septage disposal until such time as corrective action or mitigative measures have been taken.
- (D) Any person discharging to the wastewater treatment facility or to a public sewer who is found to be violating a provision of this Ordinance or of any conditions of their septage disposal, may have their permit immediately revoked.
  - (1) This revocation will be done in writing and state three reasons for revoking the Septage disposal permit.
  - (2) The person will be liable for all costs incurred by the Tribe in connection with the permit revocation.

### **Section 18. Septage Discharge Sites**

- (A) Septage must only be discharged to the sanitary sewer system by tribally-permitted Disposers and at locations, times, and conditions specified by the Tribe.

- (1) Septage discharges to the wastewater treatment works are limited to the normal working hours of the Utility Department.
- (2) Under special circumstances, discharges to specified manholes may be allowed provided discharge rates are restricted to facilitate mixing, prevent a backup in the receiving sewer and prevent a slug load to the wastewater treatment works.

(B) Written documentation of the discharge must be submitted to the Utility Department one working day prior to the discharge to the Tribes sewers or wastewater treatment works. Documentation of the discharge will include the following information: the name, address and telephone number of the hauler; the type of septage; the quantity of septage, the estimated quality of septage; the location, date time and feed rate of discharge to the sanitary sewer system; the source of septage; the name and address of septage generator; and other information as needed.

### **Section 19. General Fee Schedule**

- (A) The fee schedule will be based on the estimated average annual costs for operation of utility services and may be adjusted as needed. The fee schedule may include: connection fees, user fees, meter fees, construction permit fees, and late payment charges.
- (B) The schedule of user fees for utility services will be set by the Tribal Council.
- (1) The Utility Commission and Utility Department will meet with the Tribal Council to discuss utility fees for units of service.
  - (2) Following such discussions, the Utility Commission will recommend a schedule of fees for utility services to the Tribal Council at a regular Tribal Council meeting.
  - (3) The schedule of fees must be posted for a 14-day comment period in the Tribe's usual posting locations before the Tribal Council takes action.
- (C) The fee schedule may also differentiate between residential and commercial or industrial consumers of tribal utility services. Thus, the Tribe may assess different fee schedule based on whether the consumer is residential or commercial/industrial.
- (D) A copy of the fee schedule will be provided to consumers at least 30 days prior to the date any fee changes take effect.
- (E) Absent any special arrangements with the Tribe, consumers must pay fees for the water and sewer utilities on a monthly basis.
- (1) All charges for sanitary sewer service must be payable on the last day of the month.

- (2) A two percent (2%) penalty will be added to those bills not paid on or before the 20<sup>th</sup> day after the due date of the bill with a twenty-five cent (\$0.25) minimum penalty charge.
- (3) A failure to receive a bill shall not excuse nonpayment.

## **Section 20. Sanitary Sewer Fees**

(A) In setting the rates of the fees for sanitary sewer utilities, it is to be the policy of the Tribe to obtain revenues to pay the cost of:

- (1) the annual debt retirement payment of any bond indebtedness;
- (2) any required cash reserve account payment; and
- (3) operation and maintenance of the wastewater treatment works, including a replacement fund, through a system of consumer charges, which assures that each consumer pays a proportionate share of the cost of such works.

(B) Classification of Sewer Consumers.

(1) Sewer units of service shall be classified in one of the following categories:

- (a) Residential;
- (b) Commercial;
- (c) Large-scale Commercial (domestic strength wastewater);
- (d) Industrial;
- (e) Public or Government (domestic strength wastewater); or
- (f) Other consumers

(2) Commercial facilities that are used daily by equivalent of more than 25 persons shall be considered to be large-scale commercial facilities. Other commercial facilities are used daily by the equivalent of 25 or less people.

(C) Sewer fees are charged to the unit of service based on the class of consumer and take into consideration the average volume and quality of wastewater generated by that size of consumer.

## **Section 21. Penalties for Non-Compliance**

(A) The Tribe may take the following actions if the consumer does not comply with Any provisions of this Ordinance or other applicable law or policies:

- (1) termination and disconnection of service;
- (2) assessment of penalties;
- (3) assessment of damages resulting from consumer's noncompliance;
- (4) forfeiture of all or part of a deposit;

- (5) seeking a judgment against the consumer in state tribal court for fees and other charges after the account is declared delinquent;
- (6) filing suit for damages in state or tribal court; and
- (7) referring violations that may involve criminal conduct to the proper authorities.

(B) Termination of Service.

- (1) For non-payment of tribal utility services or for violation of this Ordinance, the Tribe has the option to shut off service to the violating unit of service.
  - (a) The consumer is entitled to receive a 30-day written notice of termination.
  - (b) The notice of termination will include the consumer's right to appeal the Tribes decision to shut off service to the Utility Commission. Upon request, the Utility Commission is authorized to provide for extensions of time to pay an outstanding balance owed to the Tribe for utility services, or to work out a payment schedule.
- (2) Service shall be re-established to the consumer by order of the Utility Commission upon:
  - (a) payment of all fees and other costs, including the expenses and established charges for termination and re-establishing service; and upon any other terms as the Utility Commission determines.

**Section 22. Consumer Service and Grievance Procedure**

The Utility Commission will establish a policy on consumer service and grievance procedure on matters related to the Tribe's oversight and delivery of utility services.

**Section 23. Severability**

If any section, subsection, or other parts of this ordinance is held to be invalid, such decision will not affect the validity of the remaining portions of the Ordinance.

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