

Wastewater Treatment Ordinance

Contents

| | | |
|---------|--|----|
| 8.1.101 | Title..... | 2 |
| 8.1.102 | Authorization; purpose and intent; application and scope; jurisdiction. | 2 |
| 8.1.103 | Definitions. | 2 |
| 8.1.104 | Regulatory Authority..... | 11 |
| 8.1.105 | Discharge Restrictions; prohibitions; penalties. | 13 |
| 8.1.106 | Prohibitions affecting public wastewater system; requirements for connection. | 16 |
| 8.1.107 | Permits; connection to public wastewater system. | 17 |
| 8.1.108 | Filing of statement of materials discharged; additional charges. | 21 |
| 8.1.109 | User rates and charges. | 23 |
| 8.1.110 | Wastewater Treatment Facility Administration; review and audit; insurances.. | 26 |
| 8.1.111 | Validity, Severability, Conflict, Liability..... | 27 |
| 8.1.112 | Tribal Sovereignty Retained Unless Expressly Waived..... | 27 |

**Hannahville Indian Community
Title VIII, Chapter 1
Wastewater Treatment Ordinance**

8.1.101 Title.

This Ordinance shall be known as the “Hannahville Indian Community Wastewater Treatment Ordinance” or “Wastewater Treatment Ordinance.”

8.1.102 Authorization; purpose and intent; application and scope; jurisdiction.

- (1) Authorization. This Ordinance is authorized pursuant to Article V of the Tribal Constitution.
- (2) Purpose and Intent. To provide rules and regulations regarding wastewater, including sanitary sewers, sewer connections, domestic sewage discharge, and industrial wastewater discharge to the tribally owned collection and treatment system of the Hannahville Indian Community, (the “Community” or the “Tribe”) and providing for pollutant limitations, data collection, monitoring and sampling, special user contracts, and penalties for violations of this Ordinance in order to preserve the health and well-being of its tribal members, employees, and neighbors.
- (3) Application and Scope. This Ordinance applies to the use of the Hannahville Indian Community wastewater treatment system by on-reservation users and off-reservation users in respect to services to be supplied to neighboring communities for wastewater treatment, except where amended or modified by express Agreement pursuant to action by the Tribal Council, which shall be evidenced in writing.
- (4) Jurisdiction. The Hannahville Indian Community Tribal Court shall have exclusive jurisdiction over all matters, causes of action, agreements, and relationships as indicated within the applicability and other sections of this Ordinance which relate to matters within the geographic jurisdiction of the Tribe, the use of its wastewater treatment system as defined by this Ordinance, the tribal Constitution, and tribal and federal law.

8.1.103 Definitions.

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- (1) “B.O.D.” - biochemical oxygen demand means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in 5 days at 20 degrees centigrade expressed in terms of weight and concentration (milligrams per liter).
- (2) “Building Drain” - the part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of a building and conveys it to the building sewer, beginning 5 feet outside the inner face of the building wall.
- (3) “Building Sewer” - the extension from a building drain to the public wastewater collection system or other places of disposal.
- (4) “Chemical Oxygen Demand” - a measure of the oxygen-consuming capacity of inorganic and organic matter present in water or wastewater expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand. Also known as OC and DOC, oxygen consumed and dichromate oxygen consumed, respectively.
- (5) “Clean Water Act” - the Federal Water Pollution Control Act of 1972 (PL 92-500), as amended by the Clean Water Act of 1977 (PL 92-217), 33 USCA § 1251, et seq.
- (6) “Combined Sewer” - a sewer which receives both surface runoff and sewage.
- (7) “Commercial Waste” - a liquid or water-carried waste material from a commercial business engaged in buying, selling, or exchanging goods, or engaged in preparing such goods for sale or service.
- (8) “Compatible Pollutant” - a substance amenable to treatment in the wastewater treatment plant, such as biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the NPDES permit for the publicly owned treatment facility, which facility was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree. Examples of such additional pollutants may include chemical oxygen demand, total organic carbon, phosphorus and phosphorus compounds, nitrogen compounds, fat and oils and greases of animal or vegetable origin.
- (9) “Composite Sample” - a series of samples taken over a specific time period whose volume is proportional to flow in the waste stream, which are combined into one sample.

- (10) “Contributor” - any individual, firm, company, association, society, corporation, or group responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public wastewater system.
- (11) “Cooling Water” - the water discharged from any use, such as but not limited to, air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.
- (12) “Debt Service Charge” - charges levied to customers of the wastewater system and which are used to pay principal, interest and administrative costs of retiring the debt incurred for construction of the wastewater system. The debt service charge shall be in addition to the user charge as defined in this section.
- (13) “Equivalent Dwelling Unit” - a unit representing an estimate of the amount of wastewater expected to be discharged from a building or premises and is approximately the amount of wastewater discharged from a typical residential dwelling with an average number of persons, with typical domestic water use habits. In a flat rate user fee system, the equivalent dwelling unit is the method of assigning and determining the flow generated and services paid for.
- (14) “EDU” - equivalent dwelling unit.
- (15) “Garbage” - solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.
- (16) “Grab Sample” - a sample which is taken from a waste stream on a one - time basis with no regard to the flow in the waste stream and without consideration of time.
- (17) “Holding Tank Waste” - any waste from holding tanks such as but not limited to, vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump trucks.
- (18) “Incompatible Pollutant” - any pollutant which is not a compatible pollutant.
- (19) “Industrial Cost Recovery” - the wastewater discharges from industrial manufacturing trade or business processes as distinguished from sanitary sewage.
- (20) “Industrial Wastes/Industrial Process Waters” - liquid wastes from industrial, manufacturing, trade or business processes, or wastewater

discharge with these characteristics, as distinct from their employees' domestic wastes from sanitary conveniences.

- (21) "Inspector" - the person duly authorized by the Tribal Council to inspect and approve the installation of building sewers and their connections to the public waste water system, and to inspect the sewage discharged from them.
- (22) "Major Contributing Industry" - any industrial user of the Hannahville Indian Community wastewater treatment system that has any of the following:
 - (a) Has a flow of 50,000 gallons or more per average work day.
 - (b) Has a flow greater than 5 percent of the flow carried by the wastewater treatment system receiving the waste.
 - (c) Has in its waste a toxic pollutant in toxic amounts as defined in the standards issued under section 307(a) of PL 92-500, the Federal Water Pollution Control Act of 1972, 33 USCA § 1317, et seq.; or
 - (d) Is found by the permit issuance authority in connection with the issuance of an NPDES permit to the publicly owned wastewater treatment facility receiving the waste to have significant impact, whether singly or in combination with other contributing factors, on the wastewater treatment facility or upon the quality of effluent from the wastewater treatment facility.

All major contributing industries shall be monitored.

- (23) "National Categorical Pretreatment Standards or Pretreatment Standards" - Any federal regulation containing pollutant discharge limits promulgated by the EPA which applies to a specific category of industrial users.
- (24) "Natural Outlet" - any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.
- (25) "NPDES Permit" - a permit issued pursuant to the National Pollutant Discharge Elimination System as prescribed in PL 92-500.
- (26) "Normal Sewage" - sewage which contains not over 200 parts per million of suspended solids and not over 300 parts per million of B.O.D. by weight, and not over 10 parts per million of phosphorus by weight, and which does not contain any of the materials or substances listed in 33 USCA § 1317, et seq., in excess of allowable amounts specified.

- (27) “Normal Strength” - sewage or wastes, the concentration of which do not exceed BOD of 300 mg/l, SS of 200 mg/l, phosphorus of 10 mg/l, and fats, oils, and grease 100 mg/l, which have a pH between 6.5 and 9.5 and which do not contain a concentration of other constituents which will interfere with the flow or the normal sewage treatment process.
- (28) “Operation and Maintenance” - all work, materials, equipment, utilities and other efforts required to operate and maintain the wastewater transportation and treatment system consistent with ensuring adequate treatment of wastewater to produce an effluent in compliance with the NPDES permit and other applicable tribal, state and federal regulations, and includes the cost of replacement.
- (29) “Owner” - owners of record of the premises or a lesser estate, which may or may not include ownership of the land, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, partnership, association or corporation in control of a building.
- (30) “Person” - any agent, assigns, individual, firm, company, association, owner, partnership, society, corporation, or group using the wastewater treatment plant or sewage collection system.
- (31) “pH” - the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution. It is used to indicate the concentration of free acid and alkali.
- (32) “PL-92-500” - the Federal Water Pollution Control Act of 1972 being Public Law 92-500 of the 92nd Congress and adopted October 18, 1972, 33 USCA § 1251, et seq.
- (33) “Pollutant” - Any of various chemicals, substances and refuse materials such as solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, radioactive materials, heat, and industrial and agricultural wastes which impair the purity of the water or soil.
- (34) “Pollution” - the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.
- (35) “Premises” - the particular property including all buildings or other structures, connected or to be connected to the wastewater treatment system.
- (36) “Pretreatment or Treatment” - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of

discharging or otherwise introducing the pollutants into the wastewater treatment system. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes, except as prohibited by 40 CFR § 403.6(d), or other applicable law.

- (37) "Pretreatment Requirements" - any substantive or procedural requirement for treating of a waste prior to discharge into the wastewater treatment system, including National Categorical Pretreatment Standards.
- (38) "Private Sewer Lines" - All service lines and equipment installed or located on any premises to and including any structure or facility which exists on the premises for the disposal of sewage.
- (39) "Properly Shredded Garbage" - wastes from the preparation, cooking or dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one inch in any dimension.
- (40) "Public Sewer" - the Hannahville Indian Community wastewater treatment collection system.
- (41) "Replacement" - the replacement, in whole or in part, of any equipment in the wastewater transportation or treatment systems to ensure continuous treatment of wastewater in accordance with the NPDES permit and other applicable tribal, state and federal regulations during the service life of the system.
- (42) "Roof Drain" - a conduit for conveying storm or rainwater from a roof.
- (43) "Sanitary Sewage" - sewage discharging from the sanitary conveniences of dwellings (including apartment buildings and hotels), office buildings, factories or institutions, and permissible industrial wastes which are free from storm and surface waters.
- (44) "Sanitary Sewer" - a sewer which carries sewage and to which storm waters, surface waters and ground waters are not intentionally admitted.
- (45) "SBR" - a Sequencing Batch Reactor treatment facility.
- (46) "Sewage" - a combination of the water-carried wastes from residences, business buildings, institutions and industrial and commercial establishments, together with such nominal amounts of ground waters as may be present, also referred to as "wastewater."
- (47) "Sewer" - a pipe or conduit used for carrying sewage.

- (48) “Sewage Pump Station” - a pump station, including lift stations, installed, owned, operated and maintained by the Hannahville Indian Community or its authorized agents as a component of the public wastewater system. Sewage pump stations may serve individual residences or may serve multiple connections and are utilized to lift sewage in one portion of the sewage system to flow by gravity to another portion of the system.
- (49) “Sewer Service Charge” - the sum of applicable user charges, surcharges, industrial cost recovery and debt service charges.
- (50) “Sewage Treatment Plant, Sewage Works, or Sewage System” - any arrangement of equipment, devices and structures used for treating sewage, including, without limitation, all facilities for collecting, pumping, treating and otherwise disposing of sewage. A Sequencing Batch Reactor treatment facility is included within the definitions of both “Sewage Treatment Plant” and “Waste Water Treatment Plant.”
- (51) “Significant Noncompliance” - chronic violations of wastewater discharge limits, including violations of daily maximum limits or average maximum limits which alone or in combination with other discharges cause interference or pass through, or any other violation or group of violations adversely affecting the operation or implementation of the wastewater treatment system.
- (52) “Slug Load” - Any substance released in a discharge at a rate and or concentration which causes interference to a wastewater treatment system.
- (53) “Storm Sewer and Storm Drain” - a sewer which carries storm waters, surface waters and drainage, but excludes sewage and polluted industrial, toxic or hazardous wastes.
- (54) “Surcharge” - a part of the service charge; any user discharging wastewater having a strength in excess of 300 mg/l BOD, 200 mg/l suspended solids, or 18 mg/l phosphorus will be required to pay an additional charge to cover the cost of treating such excess strength wastewater.
- (55) “Surface Water” - that portion of rainfall or other precipitation which runs off over the surface of the ground.
- (56) “Suspended Solids” - solids that either float on the surface of, or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.
- (57) “Tribal Council” – the governing body of the Hannahville Indian Community, elected by its membership.

- (58) “User” - the kind of user connected to the wastewater treatment system, including, but not limited to, residential, industrial, commercial, institutional and governmental users.
- (a) “Commercial User” - an establishment involved in a commercial enterprise, business or service which, based on a determination by the Hannahville Indian Community Water Operations Department or its agent, discharges primarily segregated domestic wastes or wastes from sanitary conveniences and which is not a residential or an industrial user. A user whose premises:
- [1] are privately owned or leased and used to perform and/or sell services and/or products for profit (i.e. such as without limitation, retail and wholesale stores, restaurants, motels, hotels, gasoline stations); and
 - [2] discharge primarily domestic sewage.
- (b) “Government User” - Any federal, tribal, state or local government user of the wastewater treatment facilities. A user whose premises:
- [1] are publicly owned or leased facilities performing government functions (i.e. such as without limitation, government office building, post office, library, school); and
 - [2] discharge only domestic sewage.
- (c) “Industrial User” - any nongovernmental user of the wastewater treatment system that is, or does any of the following:
- [1] discharges more than 25,000 gallons per day of sanitary waste or a volume of process waste, or combined process and sanitary waste, equivalent to 25,000 gallons per day of sanitary waste. A user whose premises:
 - [2] has a flow greater than 5 percent of the flow carried by the wastewater treatment system receiving the waste.
 - [3] is privately owned or leased and is used for manufacturing a product from raw or purchased material and discharges waste water used in any way in the manufacturing process in addition to domestic sewage.

- [4] has in its waste a toxic pollutant in toxic amounts as defined in the standards issued under section 307(a) of PL 92-500, 33 USCA § 1317 et seq.; or
 - [5] is found by the permit issuance authority in connection with the issuance of an NPDES permit to the publicly owned wastewater treatment facility receiving the waste to have significant impact, whether singly or in combination with other contributing factors, on the wastewater treatment facility or upon the quality of effluent from the wastewater treatment facility.
- (d) “Institutional User” - any establishment involved in a social, charitable, religious or educational function which, based on a determination by the Hannahville Indian Community Water Operations Department or its agent, discharges primarily segregated domestic wastes or wastes from sanitary convenience. A user whose premises:
- [1] are owned or leased by a nonprofit pursuant to § 501 IRC of 1986, as amended, or are tribally owned and operated (i.e. without limitation, churches, hospitals, clinics); and
 - [2] discharges primarily domestic sewage.
- (e) “Residential User” - a user of the treatment works whose premises or buildings are used primarily as a domicile for one or more persons, including dwelling units as detached, semi-detached and row houses, mobile homes, apartments or permanent multifamily dwellings. A user whose premises:
- [1] are domiciles for single or multifamily use; and
 - [2] discharges only domestic sewage.
- (59) “User Charge” - a charge based on a method calculated to distribute a user’s share in the cost of operation and maintenance (including replacement) of the system.
- (60) “User Surcharge” - a charge imposed on a user of the system who discharges sewage or wastes in excess of normal conditions agreed upon or permitted by the Hannahville Indian Community.
- (61) “UV Demand/Interference” - any compound or waste stream that increases demand or causes interference with the disinfection processes or equipment if discharged into the wastewater treatment system (including

but not limited to, dyes, excessive metals, metal salts, organic or inorganic solutes whether in solution or as precipitates.

- (62) “Wastewater Connection Hook-up Service Fee” - a charge levied by the Community after the date of initial operation of the system for each new connection to the wastewater system. The fee will be based on the number of EDU assigned to the user. EDU will be reviewed annually to determine EDU quantity and equity of charging among users.
- (63) “Wastewater Treatment Facilities” - all facilities for collecting, pumping, treating and disposing of sewage. A Sequencing Batch Reactor treatment facility is included within this definition and the definitions of both “Sewage Treatment Plant” and “Waste Water Treatment Plant.”
- (64) “Wastewater Treatment Plant” - any arrangement of devices, structures and/or equipment used for treating sewage. A Sequencing Batch Reactor treatment facility, including collecting pipes and pumping stations, is included within this definition and within the definitions of both “Sewage Treatment Plant” and “Waste Water Treatment Plant.”
- (65) “Watercourse” - a channel in which a flow of water occurs, either continuously or intermittently.

8.1.104 Regulatory Authority.

Wastewater discharges shall be expressly subject to all provisions of this Ordinance and such regulations as are promulgated from time to time in order to maintain a safe, efficient, and economically feasible system. Other Agreements notwithstanding, the Hannahville Indian Community may:

- (1) Set unit charges or a schedule of user charges and fees for the wastewater to be discharged to the Hannahville Indian Community wastewater collection and treatment facility.
- (2) Limit the average and maximum wastewater constituents and characteristics.
- (3) Limit the average and maximum rate and time of discharge or make requirements for flow regulations and equalization.
- (4) Require the installation and maintenance of inspection and sampling facilities in regard to wastewater received from users within the jurisdiction of the Hannahville Indian Community and in regard to wastewater received from users located without the territorial jurisdictional boundaries of the Hannahville Indian Community.

- (5) Establish specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule.
- (6) Establish compliance schedules.
- (7) Require submission of technical reports or discharge reports.
- (8) Require all users other than residential to maintain, retain and furnish plant records relating to wastewater discharge.
- (9) Require prompt notification of the Community in advance of any new introduction of wastewater constituents or any substantial change in volume or character of the wastewater constituents being introduced into the wastewater treatment system.
- (10) Require immediate notification of all discharges that could cause problems to the wastewater treatment system, including slug discharges.
- (11) Require other conditions as deemed appropriate by the Community to ensure compliance with this Ordinance.
- (12) Require waste treatment facilities, process facilities, waste streams, or other potential waste problems to be placed under the specific supervision and control of persons who have been certified by an appropriate tribal, state or federal agency as properly qualified to supervise such facilities.
- (13) Require records and file reports to be maintained on the final disposal of specific liquids, solids, sludges, oils, radioactive materials, solvents, or other wastes.
- (14) Control through permit, order, or similar means, the contribution to the wastewater treatment system by each user to ensure compliance with applicable National Categorical Pretreatment Standards or Pretreatment Requirements. The control mechanism may limit duration to a maximum of five years, require nontransferability without appropriate prior notification, set effluent limits, establish monitoring and reporting requirements, and contain a statement of applicable penalties for violations.
- (15) Adjust National Categorical Pretreatment Standards to reflect the presence of pollutants in a user's intake water.
- (16) Set construction standards for all construction and maintenance not provided by the Hannahville Indian Community.

8.1.105 Discharge Restrictions; prohibitions; penalties.

- (1) It shall be unlawful for any person to discharge, or cause to be discharged, any stormwater, surface water, groundwater, water from footing drains, cooling water, unpolluted industrial process waters or roof drain water to any sanitary sewer or sewer connection, except as otherwise provided in this Ordinance. Downspouts and roof leaders shall not be connected to the system. In the event that natural or manmade occurrences are detrimental to the water pollution control facilities or to the public health and welfare of the Community, industrial wastes may be prohibited wholly, or in part, without further notice.
- (2) Stormwater, groundwater, water from footing drains and all other unpolluted drainage shall be discharged into sewers specifically designated as storm sewers, or to a natural outlet, except as otherwise provided in this Ordinance. Industrial cooling waters or unpolluted process waters may be discharged upon application and approval of the Community to a storm sewer or natural outlet.
- (3) Except as otherwise provided in this Ordinance, no person shall discharge, or cause to be discharged, any of the following waters or wastes to any public sewer:
 - (a) any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius) or lower than 32 degrees Fahrenheit (zero degrees Celsius).
 - (b) any water or waste which may contain more than 100 parts per million by weight of fat, oil or grease.
 - (c) any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
 - (d) any garbage that has not been properly shredded.
 - (e) any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, woods, manure or any other solid or viscous substance capable of causing obstruction to flow in sewers or other interference with the proper operation of the wastewater facilities.
 - (f) any waters or wastes having corrosive properties capable of causing drainage which is hazardous to structures, equipment and personnel of the wastewater facility.
 - (g) any waters with a pH lower than 6.5 or greater than 9.5.

- (h) any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters or the effluent of the treatment plant.
 - (i) any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the wastewater treatment plant.
 - (j) any noxious or malodorous gas or substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for maintenance and repair.
 - (k) industrial wastes or any other wastes that alone or in combination may cause a deviation from the NPDES permit requirements, pretreatment standards or be in violation of other applicable tribal, state or federal regulations.
 - (l) any water or wastes containing phenols in excess of fifty one-hundredths (0.50) parts per million.
 - (m) any water or wastes containing emulsified oil or grease exceeding an average of one hundred (100) parts per million.
 - (n) any water or wastes which contain more than ten (10) parts per million by weight of the following gases: hydrogen sulfide, sulfur dioxide or nitrous oxide.
 - (o) any liquids or vapors having a temperature higher than 90 degrees Fahrenheit and containing fat, oil or grease.
- (4) Grease, oil and sand interceptors shall be provided when liquid wastes contain grease in excessive amounts or other harmful ingredients, except such interceptors shall not be required for single-family or multiple-family dwelling units. All interceptors shall be of a type and capacity approved by the water operations department and shall be located as to be readily and easily accessible for cleaning and inspections. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers, which, when bolted into place, shall be gastight and watertight. Installation shall be permitted and inspected by the Hannahville Indian Community.

- (5) Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation, at all times.
- (6) The admission into the public sewers of any waters or wastes containing more than 300 mg/l of BOD, 200 mg/l of suspended solids or 10 mg/l of phosphorus, or containing any quantity of substances having the characteristics described in subsection (c) of this section, or having an average daily flow greater than 5 percent of the average daily flow carried by the wastewater treatment system shall be subject to review and approval of the Community through its water operations department. Preliminary treatment shall be provided at no expense to the Community as may be necessary to reduce the BOD to 300 mg/l, suspended solids to 200 mg/l phosphorus to 10 mg/l or to reduce objectionable characteristics for constituents to within the maximum limits provided for in subsection (c) of this section, or control the quantity and rates of discharges of such waters or wastes. A person may be required to remove, exclude or provide pretreatment of any industrial waste, in whole or in part, for any reasons deemed to be in the interest of the Community. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained in satisfactory and effective operation by the owner, at his expense. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for Community approval, and construction of any facility shall not be commenced until such approvals are obtained in writing. The Community may elect to treat industrial wastes discharged in excess of normal domestic concentrations on a basis prescribed by written agreement and for an established surcharge to cover the added cost.
- (7) The owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. The manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Hannahville Indian Community. The manhole shall be installed by the owner at his expense, and unless otherwise agreed, shall be maintained by him so as to be safe and accessible at all times.
- (8) All measurements, tests and analyses of the characteristics of waters and wastes to which references are made in this section shall be determined in accordance with the Standard Methods for Examination of Water and Wastewater and other guidelines approved by the Community and shall be determined at the control manhole provided for in subsection (7) of this section, or upon suitable samples taken at the control manhole. If no special manhole has been required, the control manhole shall be

considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

- (9) Nothing contained in this section shall be construed as preventing any special agreement between the Hannahville Indian Community and an industrial concern or other organization whereby an industrial waste of unusual strength or character may be accepted, subject to payment by the industrial concern, provided the agreement shall not violate NPDES requirements and provided user charges, surcharges and industrial cost recovery payments as provided in this Ordinance are agreed to in the agreement.
- (10) Penalties.
 - (a) Violations of any provision of this Ordinance may be subject to up to \$5000.00 in fines, plus costs and restitution.
 - (b) Additionally, satisfaction as to any violations of any applicable tribal, state or federal laws which cause the Hannahville Indian Community wastewater treatment system to exceed its NPDES permit shall be fully restitutionary in nature, and shall include such remedies, or payment for such remedial actions as are necessary to rectify the violation.
 - (c) Nothing contained in this Ordinance shall be construed to prevent or prohibit prosecution or civil suit pursuant to any other of the civil or criminal laws of the Hannahville Indian Community or the applicable laws of any other jurisdiction.

8.1.106 Prohibitions affecting public wastewater system; requirements for connection.

- (1) It shall be unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the wastewater service area, or in any area under jurisdiction of the Hannahville Indian Community, any human or animal excrement, garbage or other objectionable waste unless specifically permitted by the Tribal Council by resolution, statute, regulation, permit, or policy.
- (2) It shall be unlawful for any person to discharge to any natural outlet any sanitary sewage, industrial wastes or other polluted water, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.
- (3) Except as otherwise provided in this Ordinance, or by Tribal Council designation, which shall be in writing, it shall be unlawful for any person

to construct or maintain any privy, privy vault, septic tank, cesspool or other sanitary collection facility intended or used for the disposal of wastewater within the service area of the system. The owner of property upon which a private sewage disposal system is located shall operate and maintain the private sewage disposal facilities including holding tanks, in a sanitary manner at all times, and unless otherwise agreed, at no expense to the Hannahville Indian Community.

- (4) Where a public sanitary sewer is not available the building sewer shall be connected to a private sewage disposal system which complies with tribal or other applicable law, agreements and regulations.
- (5) The owner of any house, building or property which is used for human occupancy, employment, recreation or other purposes situated within the jurisdiction of the Hannahville Indian Community and which abuts on any street, alley or right-of-way in which there is located a public wastewater system may be required, at his own expense, to install suitable wastewater facilities in the house, building or property and to connect the facilities directly with the proper public wastewater system in accordance with the provisions of this Ordinance. The connection shall be completed no later than 6 months after the official notification of the need to hook up to the public sewer or after the completion of a new structure. A house, building, property, or structure will not be required to connect to the public sewer if all portions of the structure are greater than 200 feet from the public sewer.
- (6) At such times as a public wastewater treatment system becomes available to a property served by a private sewage disposal system, and if directed to do so by the Tribal Council, direct connection shall be made to the public collection system in compliance with this Ordinance, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned for sanitary use, filled with suitable material and sealed, at the expense of the owner, unless otherwise agreed.

8.1.107 Permits; connection to public wastewater system.

- (1) Permits; requirement. No sewer, drain, vault or urinal: and no sewer gas, waste or grease traps in or about any house, building or premises in the public wastewater treatment service area shall be connected to, or disconnected from the public system, without a permit in writing, issued by the Hannahville Indian Community or its authorized representative. The proposed design, connections, construction or demolition shall conform to tribal ordinances, regulations, and other applicable construction and plumbing standards as adopted by the Hannahville Indian Community. A sewer connection will not be permitted unless there is capacity available in all downstream sewers, lift stations, force mains and

the wastewater treatment plant, including the capacity for treatment of BOD and suspended solids. Unless otherwise agreed, if the Community finds it desirable to have a professional engineer review the proposed plans, specifications, construction or demolition, such review shall be performed at the expense of the applicant or permittee.

(a) Contents. Permits shall be taken out in the name of the owner, agent or person in whose interest the work is to be done, before the work is commenced, and in no case shall such work be commenced or continued unless such permit is on the grounds and in the possession of the person doing the work. Each permit application shall designate the address of the property to be connected and shall include the following information:

- [1] Drawing of parcel showing premises and proposed building sewer.
- [2] Description of the intended use of the premises to determine the character and volume of wastewater to be discharged.
- [3] Average daily wastewater flow rates, including daily, monthly and seasonal variations. Maximum projected future usage shall also be provided.
- [4] Number of proposed bedrooms for a residential building and employees for a commercial or industrial connection.
- [5] Name, address, and contact information for the property owner.
- [6] Description of type of wastewater to be discharged from non-residential buildings.
- [7] Standard Industrial Classification (SIC) number if applicable.
- [8] Description of intended pretreatment, if any.

(b) Forms. Permit applications shall be made on forms provided by the Hannahville Indian Community Water Operations Department. Permit applications shall be submitted to the water operations department along with all required information and any required permit application fee.

- (c) Connection design and construction permit fee. A connection permit fee to design, construct and connect, shall be as determined by the Community from time to time.
 - (d) Service connection hook-up fees. Unless otherwise approved by the Community and agreed to in writing, the wastewater service connection hook-up fee shall be paid prior to receiving an approved permit for design, construction and connection of the building. The Community shall determine the amount of the wastewater service connection hook-up fee based on information provided in the permit application and shall issue a request for payment of the wastewater service hook-up fee along with any additional information necessary to finalize the permit approval.
- (2) Costs of construction and maintenance; construction; minimum specifications.
- (a) Unauthorized persons; prohibition; permit and inspection required. An unauthorized person shall not cover, make any connections with or openings into, or alter or disturb the public collection system, treatment facility, nor any appurtenance thereof without first obtaining a written permit from the water operations department. Building sewers and connections shall not be covered until after they have been inspected and approved by the Community or its authorized representative.
 - (b) Installation and maintenance costs; persons responsible. All costs and expenses incidental to the installation, connection and maintenance of a building sewer to the public sewer shall be borne by the owner, unless for valid business reasons a variance is granted by the Community. The Community shall assume the cost for repair of a sewer lateral line from the private sewer to the public sewer only if the lateral has totally collapsed. If the water operations department or its authorized agent digs up a lateral and finds the sewer is not collapsed, the property owner shall pay for all expenses or the bill shall be a lien against the property.
 - (c) A separate and independent building sewer shall be provided for every building.
 - (d) Old sewer systems. Old building sewers may be used in connection with new buildings only when they are found, on examination and test, to meet all requirements of this Ordinance.
 - (e) New construction; specifications. A newly constructed building sewer shall be schedule 40 PVC, SDR 26 or 21 PVC pipe. Joints

shall be tight and waterproof, and materials and joints shall be as approved by the water operations department. Any part of a building sewer that is located within ten feet of a water service pipe shall be constructed of comparable material and pressure rating to water service pipe. If installed in filled or unstable ground, the building sewer shall be of HDPE pipe, laid on a suitable concrete bed or cradle. Transitions or connections will be constructed only with fabricated connection fittings approved by the Community. All building sewers shall be laid on a sand bedding at least 6-inches deep and shall be surrounded by sand backfill within 6-inches of the outside of the pipe.

- (f) The size and slope of a building sewer shall be subject to the approval of the Community, but the diameter shall not be less than six inches. The slope of such six-inch pipe shall not be less than one-eighth inch per foot, unless otherwise permitted.
- (g) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. A building sewer shall not be laid parallel to or within three feet of any bearing wall, which might be weakened by such installation. The depth of the building sewer shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade and in a straight line.
- (h) In all buildings in which a portion of the building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the drain shall be lifted by a sewage ejector pumping system meeting requirements of the state plumbing code and discharged to the building sewer. The public sewer shall include gravity flow sanitary sewers and shall include building sewage pumps stations when gravity sewer is not closely available. Responsibility for planning, installation, operation, and maintenance of the sewage ejector station shall belong to the private property owner.
- (i) When gravity sewer is not available within a distance which will allow gravity flow in the building drains and building sewers to the public wastewater treatment system, sewage shall be collected in a sewage pump station installed for the specific building service being connected. Sewage pump stations shall meet Community requirements and shall be simplex or duplex as required to meet specific service needs. All responsibility for purchase, installation, electrical connection, and startup shall belong to the owner of the premises. The Community will accept responsibility for operation and maintenance of sewage pump stations provided by the owner of the premises. Compatible electrical service and electrical cost

shall be provided and paid for by the property owner. An external electrical disconnect shall be required. Sewage pump stations and their installation shall meet quality standards established for the initial construction of the public system.

- (j) Applicants for a sewer connection permit shall notify the water operations department when the building sewer is ready for inspection. The water operations department or a designated representative shall then inspect the building and plumbing construction and if construction meets the previous requirements as approved in the connection permit, a sewer connection approval shall be issued, subject to the applicable provisions of other sections of this Ordinance.
- (k) Upon approval of any sewer connection, all sewer supports, testing of sewer, backfilling of sewer, including material and other elements contingent on completion of installation, shall comply with tribal and applicable state plumbing and construction codes.
- (l) When any building having a sewer is demolished a permit shall have been first obtained. The sewer lines shall be exposed and capped at the property line. This capping shall be accomplished using a proper fitting or the sewer shall be plugged with a cement plug to prevent infiltration. The cap or plug shall be inspected and approved by an authorized representative of the Community before it is buried.

8.1.108 Filing of statement of materials discharged; additional charges.

- (1) Statement required. Any industry or structure discharging unsanitary sewage to the wastewater treatment facility or to a receiving stream of the Community shall file the following information with the water operations department. The water operations department may also require each person who applies for or receives wastewater treatment services, or who through the nature of the enterprise creates a potential environmental problem, to file the following:
 - (a) A written statement identifying the nature of the enterprise, the source and amount of water used, the amount of water to be discharged, and its present or expected bacterial, physical, chemical, radioactive or other pertinent characteristic wastes.
 - (b) A plan map of the building, works or complex with each outfall to the surface waters, sanitary sewer, storm sewer, natural watercourse or groundwaters noted and described and the identification of the waste stream.

- (c) Sample tests and reports shall be filed with the water operations department and, if appropriate, state agencies on a schedule at locations and according to methods approved by the water operations department.
 - (d) Evidence of placement of waste treatment facilities, process facilities, waste streams or other potential waste problems under the specific supervision and control of persons who have been certified by an appropriate tribal, federal or state agency as properly qualified to supervise such facilities.
 - (e) A report on raw materials entering the process or support systems, intermediate materials, final products, and waste by-products, as such factors may affect waste control.
 - (f) Records shall be maintained and reports filed on the final disposal of specific liquids, solids, sludges, oil, radioactive materials, solvents or other wastes.
 - (g) Written notification to the water operations department, subject to such tribal approvals as are necessary, if an industrial process is to be altered so as to include or negate a process waste or potential waste.
 - (h) Any wastewater discharged into the sewer system which has a substance in excess of that prescribed in this Ordinance shall be permitted only if provided for in a special agreement and only if the agreement provides for payment of the full cost of treating such excess constituents in the wastewater.
- (2) Additional charges; when assessed; method of assessment.

- (a) Assessment. When suspended solids content, BOD content, phosphorus content, or grease content exceeds the maximum concentration of these components as allowed in this Ordinance, a surcharge, in addition to the normal user charge, shall be assessed by the Community.

[1] Additional charges. If the character of the sewage of any manufacturing or industrial plant or any other building or premises shall be such as to impose an unreasonable burden upon the sewers of the wastewater disposal system or the wastewater treatment plant in excess of a maximum limit prescribed in this Ordinance, an additional charge shall be made over and above the regular rates, or the Community

shall require that the sewage be treated by the responsible person before being emptied into the sewer, or the right to discharge the sewage shall be denied if necessary, to protect the system or any part of the system. Required surcharges shall be computed as the prorated share of the annual costs of operation and maintenance, including replacement, attributable to handling and treating the additional quantity and/or quality of pollutants. The surcharge shall be further based upon the present day value of facilities and actual operation and maintenance costs required to handle and treat the added pollutant loading. Surcharges shall be included with each billing and shall be adjusted annually. If any premises connected to the wastewater disposal system discharges a large portion of total water used into a storm sewer and not into the sanitary sewer, all such discharges shall comply with the requirements of tribal or applicable state and federal agencies.

- [2] Laboratory testing; additional charge. There shall be an additional charge for laboratory testing or wastewater sampling that is performed by the water operations department. The laboratory charge shall be the prevailing rate for such testing as conducted by the Hannahville Indian Community and will be determined for each user.

8.1.109 User rates and charges.

- (1) Operations and maintenance, replacement; debt service; monthly fee; charges; calculation; remedies for nonpayment. Rates and charges for the use of the Hannahville Indian Community wastewater system are established.
- (a) Monthly treatment charges. Charges for operation, maintenance, replacement, and debt service shall be payable monthly on the basis of a flat rate fee which shall be adjusted annually by the Community.
- [1] Calculation; on-reservation owners and who are Hannahville Indian Community tribal governmental, tribal members, tribal descendants, or other Indians who are members of federally recognized Indian tribes who are users. The assessed on-reservation user charge for the above class of users for treatment shall be \$xxxxxx per month per EDU for the number of EDUs assigned by the Community as representative of the wastewater flow from

the premises. The Community will set the monthly rate on an annual basis.

- [2] Calculation; on-reservation owners who are users but who are not within the classification of users in subsection [1] of this section. On-reservation owners who are users but who are not within the class of users set forth in subsection [1] of this section will be assessed appropriately and equitably to their projected use in accordance with this Ordinance.
 - [3] Calculation; off-reservation users. Off-reservation users will be assessed appropriately and equitably to their projected use in accordance with this Ordinance. It is anticipated that the terms of such use will be set forth contractually or in accord with a permit granted that is specific to the anticipated use.
 - [4] Annual review of monthly rate charge. The monthly flat rate charge shall be subject to annual review by the Hannahville Indian Community as the owner and responsible party for repayment of debt associated with construction of the system. The Community rate review will be for costs associated with repayment of United States Department of Agriculture-Rural Development loan, system short lived depreciation, replacement costs and other capital costs and administration fees reasonably required as owner of the system.
 - [5] Adjustment of EDU assignment. Any commercial, industrial, or other connection assigned greater than 1 EDU retains the right to request adjustment to the EDU assignment based on demonstration of actual flow over a one-year period. Full responsibility for demonstration of flow including installation of water meters, collection of meter data, calibration of meters, maintenance of meters and summary of data shall belong to the property owner. The Community and its representatives reserve the right to inspect the meter installation and records and may make such requirements as are reasonable to properly identify the actual volume of wastewater being generated by the premises.
- (b) New connection hook-up fee. The wastewater treatment service connection fee for new connections to the public wastewater treatment system shall be at a rate of \$2,500.00 for each EDU assigned by the Community.

- [1] After completion of the initial construction of the public wastewater treatment system, each new connection shall be levied a one-time Wastewater Service Hook-up Fee. The purpose of this fee will be to assist the Community in extending and expanding the collection system to better protect the neighboring environment. The Wastewater Service Hook-up Fee shall be assessed to the property by the Community and shall be paid prior to approval of a sewer connection permit unless otherwise agreed in writing.
- (c) Non Payment; collection of delinquent accounts, penalties, liens, termination of service.
- [1] Late charges. A 2 percent late charge will be added to a customer's account if payment is not received by the due date stated on his or her bill. This late charge will be applied on all past due balances.
- [2] Termination of service. The Community reserves the right to terminate a customer's service if payment is not received by the due date stated on the bill.
- [3] Lien against premises. Any and all charges whatsoever related to the wastewater system under this Ordinance shall be a personal obligation of the owner of the premises and shall become a lien against the premises until paid. Until all such charges are paid, the Community may at its option, proceed by offset, personal suit, foreclose upon the lien, special assessment, or other means that are equitable and reasonable under the circumstances and as allowed by applicable law. The Community may receive all related costs of collection that are incurred by the Community in such an action to collect delinquent accounts.
- (3) Bark River Township. The Hannahville Indian Community anticipates that it will agree to receive and treat the wastewater from Bark River Township. The conditions of wastewater treatment service, and system operation and maintenance if provided by the Hannahville Indian Community, short and long term depreciation, and short and long term capital costs, will be established in contracts between the Township and the Community entitled Wastewater Treatment Purchase Contract and Wastewater Management Agreement: These contracts will describe the basis for determination of the flat rate monthly charge per EDU, including new connection hook-up fees in Bark River Township a part of which are

to be receivables for the Hannahville Indian Community, and will describe the basis for periodic adjustment for wastewater volume and increased costs of treatment by the Community. As provided for in the Wastewater Treatment Purchase contract with the Community, the Community will adjust the flat rate charge per month at least as much as is required by the Community. Fee adjustments required by the Community shall be for costs incurred for operation, maintenance, equipment replacement, and management of the wastewater treatment system that are attributable to the Township's use of the system.

- (a) Bark River Township, collection of rates and charges; pretreatment requirement, costs. The rates and charges for the services furnished by the Community's wastewater system to Bark River Township shall be collected by the Community under the terms of the contract entitled Wastewater Treatment Purchase Contract. In cases where the character of the sewage from a manufacturing or industrial plant, building or premises is such that an unreasonable burden is placed upon the system greater than that imposed by the average sewage delivered to the system plant, the additional cost of treatment created shall be an additional charge over the regular rates set forth in this section, or the Community may, if it deems it advisable, compel the Township to require the manufacturing or industrial plant, building or premises to treat such sewage in such a manner as shall be specified by the Community before discharging such sewage into the wastewater disposal system, or the Township shall be required to provide such treatment itself at its own expense. In the event that neither the responsible party nor the Township provides this treatment within a reasonable time, the Community may elect to undertake such treatment as is reasonably necessary to rectify the situation and may charge Bark River Township for any costs reasonably attributable to such remedial action.

8.1.110 Wastewater Treatment Facility Administration; review and audit; insurances.

- (1) Operating year. The wastewater treatment system shall be operated on the basis of a fiscal year commencing on October 1st and ending on September 30th.
- (2) Authority of Inspectors. Authorized employees or representatives of the water operations department shall be permitted to enter upon all premises for the purpose of inspection, observation, measurement, sampling and testing. It shall be deemed a condition of a user's permission to connect with the wastewater treatment system that access be granted.

- (3) Records. The water operations department shall maintain and keep proper books of records and accounts, separate from all other records and accounts, in which shall be made full and correct entries of all transactions relating to the wastewater treatment system. An annual audit of the books of record and accounts for the preceding operating year shall be made by a recognized independent certified public accountant and will be supplied to authorized public officials on request.
- (4) Annual review of charges. In conjunction with the audit, there shall be an annual review of the wastewater treatment charge system to assure adequacies in respect to meeting expected expenditures for the following year.
- (5) Classes of users; review. Classification of old and new industrial users shall also be reviewed annually.
- (6) Insurances. The water operations department will maintain and carry insurance on all physical properties of the wastewater treatment system, of all the kinds and in the amounts normally carried by public utility companies and municipalities engaged in the operation of wastewater disposal systems. All monies received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed.

8.1.111 Validity, Severability, Conflict, Liability.

- (1) The provisions of this Ordinance are severable, and if any of the provisions, words, phrases, clauses or terms, or the application hereof to any person, firm, or corporation, or to any circumstances, shall be held invalid, illegal, or unconstitutional by any court of competent jurisdiction, such decision or findings shall not in any way affect the validity, legality, or constitutionality of any other provision, word, phrase, clause or term, and they shall continue in full force and effect.
- (2) All rules, regulations, and provisions which have heretofore been enacted by ordinance or otherwise, shall continue to be in full force and effect unless modified or amended by the terms of this division. All laws and parts of laws, all ordinances, codes and regulations which are inconsistent with or in conflict with, or are repugnant to any provisions of this Ordinance shall be deemed not to apply; provided that nothing herein contained shall be construed to prevent the adoption and enforcement of any law, ordinance, or regulation that is more restrictive or establishes a higher standard than those provided in this Ordinance.

8.1.112 Tribal Sovereignty Retained Unless Expressly Waived.

Nothing contained within this Ordinance shall be construed as a waiver of the sovereignty of the Hannahville Indian Community unless such waiver has been expressly given.

Enacted by the Hannahville Indian Community on February 17, 2005, for immediate effect.