

*Alarm system user* means the person having or maintaining a property, burglary, robbery, fire, smoke, sprinkler system flow or panic alarm. It means only a subscriber when the system is connected to an alarm system monitoring company.

*Duress alarm* means a silent alarm system signal generated by the manual activation of a device intended to signal a life threatening situation or a crime in progress requiring law enforcement response.

*False alarm* means the activation of an alarm when:

- (1) There is no evidence of a crime or other activity on the premises that would warrant a call for immediate police or fire assistance or investigation, and
- (2) No individual who was on or near the premises or who viewed a video communication from the premises, called for the dispatch or confirmed a need for immediate police or fire response.

*Fire alarm* means a signal initiated by a device such as a manual fire alarm box, automatic fire detector, waterflow switch, smoke detector, or other device whose activation is indicative of the presence of a fire or a fire signature.

*Holdup alarm* means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

*License* means a license issued by the North Carolina Alarm Systems Licensing Board to an alarm company to sell, install, monitor, repair, or replace alarm systems.

*Monitoring* means the process by which an alarm company receives signals from an alarm system and relays an alarm dispatch request to the Police Department for the purpose of summoning law enforcement response to the alarm site.

*Property alarm* or *burglary alarm* means any system, device, or mechanism for detection and reporting of any unauthorized entry or attempted entry or property damage upon property protected by the system which may be activated by sensors or other techniques, and when activated, automatically transmits a telephone message, emits an audible or visible signal that can be heard or seen by persons outside the protected premises, or transmit a signal beyond the protected premises.

*Robbery alarm* or *panic alarm* means any system, device, or mechanism activated by an individual on or near the premises, to alert others that a robbery or any other crime is in progress, or that the user is in need of immediate assistance or aid in order to avoid injury or serious bodily harm, which meets the following criteria: The system is installed on property; it is designed to be activated by an individual for the purpose of summoning assistance to the premises; it transmits a telephone message or emits an audible, visible, or electronic signal that can be heard, seen or received by persons outside the protected premises; and it is intended to summon police or fire assistance to the premises.

*System subscriber* means any person, corporation, or other business entity that purchased or contracted with an alarm system monitoring company for any alarm system.

#### Sec. 143-36. - Registration.

- (a) No alarm user shall operate, or cause to be operated an alarm system without a valid alarm registration issued by the Chief of Police or by his designee. A separate registration is required for each alarm site.
- (b) The annual fee for a registration or registration renewal for an alarm site shall be \$50.00. The initial annual registration fee must be submitted to the Chief of Police or his designee within five days after the alarm installation or alarm takeover.
- (c) Upon receipt of a completed application form and the alarm registration fee, the Chief of Police shall register the applicant unless the applicant has:
  - (1) Failed to pay a fine assessed under section 143-39; or
  - (2) Had an alarm registration for the alarm site suspended or revoked, and the violation causing the suspension or revocation has not been corrected.

(d) Each alarm registration application must include the following information:

- (1) The name, complete address (including apt. #), and telephone numbers of the person who will be the registration holder and be responsible for proper maintenance and operation of the alarm system and payment of fees assessed under this article;
  - (2) The classification of the alarm site as either residential (includes houses, mobile homes, apartments, etc.) or commercial;
  - (3) For each alarm system located at the alarm site, the classification of the alarm system, i.e., burglary, holdup, duress, or other, for each purpose whether audible or silent;
  - (4) Mailing address if different from the alarm site;
  - (5) Any dangerous or special conditions present at the alarm site;
  - (6) Name and telephone numbers of at least two individuals who are able and have agreed to receive notification of an alarm activation at any time; respond to the alarm site within 30 minutes; and upon request can grant access to the alarm site and deactivate the alarm system if such becomes necessary;
  - (7) Type of business conducted at the alarm site;
  - (8) Signed certification from the alarm user stating:
    - a. The date of installation, conversion, or takeover of the alarm system, whichever is applicable;
    - b. The name, address, and phone number of the alarm company performing the alarm system installation, conversion, or alarm system takeover and responsible for providing repair service to the alarm system;
    - c. The phone number of the alarm company monitoring the alarm system if different from the installing alarm company;
    - d. That a set of written operating instructions for the alarm system, including written guidelines on how to avoid false alarms, have been left with the applicant; and
    - e. That the alarm company has trained the applicant in proper use of the alarm system, including instructions on how to avoid false alarms.
  - (9) A statement that law enforcement's response may be based on factors such as: availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels, etc.
- (e) Any false statement of a material fact made by an applicant for the purpose of obtaining an alarm registration shall be sufficient cause for refusal to issue a registration.

Sec. 143-37. - Duties of the alarm user.

(a) An alarm user shall:

- (1) Maintain the premises and the alarm system in a manner that will minimize or eliminate false alarms;
- (2) Make every reasonable effort to respond or cause a representative to respond to the alarm system's location within 30 minutes when notified by the Police Department to deactivate a malfunctioning alarm system, to provide access to the premises, or to provide alternative security for the premises; and
- (3) Not manually activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report.

- (b) An alarm user shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an alarm site will sound for no longer than ten minutes after being activated.
- (c) An alarm user shall not use automatic voice dialers.
- (d) An alarm user shall maintain at each alarm site a set of written operating instructions for each alarm system.
- (e) An alarm user shall have a properly licensed alarm company inspect the alarm system after two false alarms in a 12-month period from the date of registration issuance or renewal. After four false alarms within a 12-month period from the date of registration issuance or renewal the alarm user must have a properly licensed alarm company modify the alarm system to be more false alarm resistant or provide additional user training as appropriate. Anyone installing, servicing or modifying an alarm system shall complete and follow the installers' false alarm prevention checklist provided in section 143-43.

Sec. 143-38. - Duties of alarm system monitoring companies; verification process.

- (a) Every person, firm, association, corporation, or business that engages in or holds itself out as engaging in an alarm systems business within the territory of the Eastern Band of Cherokee Indians must be licensed by the North Carolina Alarm Systems Licensing Board and in addition shall:
  - (1) Register with the Cherokee Chief of Police, pay a \$100.00 registration fee, present proof of license, and certificate of liability insurance with the following minimum coverage: \$50,000.00 for bodily injury or death of one person as a result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his employment, subject to aid limit for one person, \$100,000.00 because of bodily injury or death of two or more persons as the result of the negligent act or acts of the principal insured or his agent operating in the course and scope of his or her agency; \$20,000.00 because of injury to or destruction of property of others as the result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his or her agency. A current certificate of insurance shall be maintained on file with the Chief of Police at all times;
  - (2) Provide the Chief of Police current and correct information about the nature of its property alarms, burglary alarms, robbery alarms, fire alarms, and panic alarms and its method of monitoring its program for preventing false alarms, its maintenance and testing procedures and frequencies, and its method of disconnecting audible alarms, as the Police Chief may require by rule;
  - (3) Maintain a current list of all subscribers' names and the associated protected premises it serves, which list shall be accessible to the Chief of Police or designee at all times;
  - (4) Use control panels tested for conformance to the Security Industry Association (SIA) Control Panel Standard - Features for False Alarm Reduction;
  - (5) After completion of the installation, the alarm system monitoring company shall review with the alarm user the customer false alarm prevention checklist provided in section 143-44.
  - (6) Attempt to verify through an established verification process every alarm signal, except a duress or holdup alarm activation before requesting a law enforcement response to an alarm system site to prevent false alarms from resulting in unnecessary police and/or fire dispatches;
  - (7) Ensure that all alarm users of alarm system equipped with a duress or holdup alarm are given adequate training as to the proper use of the duress or holdup alarm;
  - (8) Contact the alarm user when an alarm dispatch request is made; and
  - (9) When the Chief of Police reports that there appears to have been a false alarm at a subscriber's premises, work cooperatively with the subscriber and the Chief of Police in order to determine the cause thereof and prevent recurrences.

- (b) For purposes of this section, a verification process is an independent method of determining that a signal from an automatic alarm system reflects a need for immediate police and/or fire assistance or investigation. The verification process shall not take more than five minutes calculated from the time that the alarm signal is received by the alarm system monitoring company until a decision is made whether to call for police and/or fire dispatch. The means of verification must include one or more of the following:
- (1) The establishment of voice communication with an authorized person at or near the premises who may indicate whether or not need for immediate police and/or fire assistance or investigation exists;
  - (2) A feature that permits the alarm system user or a person authorized by the user to send a special signal to the alarm system monitoring company that will cancel an alarm immediately after it has been sent and prevent the monitoring company calling for a police and/or fire dispatch;
  - (3) The installation of a video system that provides the alarm system monitoring company, when the signal is received, with the ability to ascertain that activity is occurring which warrants immediate police and/or fire assistance or investigation;
  - (4) A confirmation that a signal reflects a need for immediate police and/or fire assistance or investigation either by the alarm system user, a person at or near the premises, or an alternate response agency made before dispatching police; or
  - (5) An alternate system that the Chief of Police or designee determines has or is likely to have a high degree of reliability.
- (c) Violation of this Subsection by an individual, firm, association, corporation or business that engages in or holds itself out as engaging in an alarm systems business shall result in a fine of \$200.00 for the first violation and \$500.00 for all subsequent violations.

Sec. 143-39. - Fines.

- (a) An alarm user shall be subject to fines, warnings, and suspension or revocation of registration depending on the number of false alarms emitted from an alarm system within a 12-month period from the date of registration or renewal based upon the following schedule:

# of False Alarms	Fines
1	\$ 0.00
2	50.00
3	100.00
4 or more	200.00

- (b) In addition, any person operating a nonregistered alarm system will be subject to a \$200.00 fine for each false alarm, in addition to any other fines.
- (c) If cancellation occurs prior to law enforcement arriving at the scene, this is not a false alarm for the purpose of fines and no fines will be assessed.

Sec. 143-40. - Suspension.

- (a) The Chief of Police may suspend alarm response if it is determined that:
- (1) The alarm user had four or more false alarms in a 12-month period and the alarm user has failed to submit a written certification from an alarm system monitoring company that the alarm system has been inspected and repaired/modified (if necessary) by the alarm system monitoring company;
  - (2) There is a false statement of a material fact in the application for a registration; or
  - (3) The alarm user has failed to make timely payment of a fine or fee assessed under this article.
- (b) Notification: The Chief of Police shall notify the alarm user in writing whenever it is determined that response has been suspended. A description of the appeals procedure shall be included in this notification.

Sec. 143-41. - Appeals.

An alarm user may appeal the assessment of a fine or a suspension by filing a written appeal the to the Chief of Police and such appeal conform to the due process requirements of Chapter 150. to the Executive Director of Community Services within ten days after receipt of the fine or notice of suspension, setting forth the reasons for the appeal. An appeal fee of \$25.00 will accompany the appeal by the alarm user. The filing of an appeal with the Executive Director of Community Services stays assessment of the fine or suspension until the Executive Director makes a final decision.

Sec. 143-42. - Sovereign immunity.

Registration of an alarm system is not intended to, nor will it, create a contract, duty or obligation either expressed or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By registering an alarm system, the alarm user acknowledges that police response may be based on factors such as: availability of police officers, priority of calls, weather conditions, traffic conditions, and emergency conditions staffing levels.

Sec. 143-43. - Installer false alarm prevention program checklist.

Anyone installing, servicing or modifying an alarm system shall complete and follow the installers' false alarm prevention checklist provided in this section.

YES	NO		
___	___	1.	If a duress feature was installed, I thoroughly explained it.
___	___	2.	I confirmed that the control panel has been programmed so that:
___	___		(a) It will not transmit more than two alarm signals from the same zone until manually restored at the premises.
___	___		(b) It will delay at least fifteen seconds before initiating dialing on intrusion alarm signals.
___	___		(c) It has adequate delay time on entry/exit doors (delay of 45 seconds or more is

			recommended.
_____	_____		(d) A cancel code can be entered by the customer to cancel accidental alarms.
_____	_____	3.	I verified that police and fire panic buttons cause a siren or speaker to sound and that medical panic buttons cause an audible signal.
_____	_____	4.	I verified that the keypad(s) emit sufficient sound to inform occupants when an entry/exit door sensor has been triggered.
_____	_____	5.	I installed and tested standby/backup power.
_____	_____	6.	I reviewed the "Customer False Alarm Prevention Checklist" with the customer.
_____	_____	7.	I determined whether the customer had special telephone features, such as call waiting, and took appropriate steps to allow proper control panel dialing and monitoring center verification.
_____	_____	8.	I made sure the control panel was properly grounded.
_____	_____	9.	I made sure that all door and window contacts were properly selected, installed and tested. I considered loose fitting doors and windows, whether wide gap contacts were needed, and steel doors and windows. I followed the manufacturer's installation instructions.
_____	_____	10.	I made sure all glass breakage sensors were properly selected, installed and tested. I gave consideration to pets, on site noises and the general environment. I followed the manufacturer's installation instructions.
_____	_____	11.	All motion type detectors were properly selected, properly installed and tested. I gave consideration to pets, sunlight, other heat sources, and harsh environments. I followed the manufacturer's installation instructions.

Please explain if you answered "No" to any of the above items:

Installation Technician

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Sec. 143-44. - Customer false alarm prevention program checklist.

After completion of the installation, the alarm system monitoring company shall review with the alarm user the customer false alarm prevention checklist provided in this section.

CUSTOMER FALSE ALARM PREVENTION CHECKLIST

YES	NO	(Check one)
____	____	I have been trained in the proper operation of the system.
____	____	I have been given a summary operating sheet.
____	____	I have been given the security system operating manual.
____	____	I know how to cancel an accidental alarm activation.
____	____	I have the cancellation code.
____	____	I know how to turn off motion detectors while leaving other sensors on.
____	____	I know how to test the system, including the communication link with the monitoring center.
____	____	I understand the length of delay time on designated entry/exit doors and I believe this will provide sufficient time to get in and out of the premises.
____	____	I have the alarm company phone number to request repair service or to ask questions about the alarm system.
____	____	I have been offered the option of training/no dispatch period.
____	____	I understand that indoor pets can cause false alarms and I will contact my alarm company to adjust the system if I acquire any additional indoor pets.
____	____	I know where the main control panel and transformer are located.

_____	_____	I have received an alarm sheet which describes how the alarm company will communicate with me in the event of various alarm signals.
_____	_____	I understand the importance of keeping my emergency contact information updated and I know how to do this.
_____	_____	I understand the importance of immediately advising the alarm company if my phone number changes (including area code changes)
_____	_____	I understand the importance of any other changes to my telephone service such as call waiting or a fax line.
_____	_____	I have been made aware of the alarm ordinance that governs the operation of the system and I will comply with all applicable requirements.
_____	_____	I will advise the alarm company if I do any remodeling (such as extensive painting, moving walls, doors, or windows)
_____	_____	I understand that certain building defects (such as loose fitting doors or windows, rodents, inadequate power, and roof leaks) can cause false alarms. I will correct these defects as I become aware of them.
_____	_____	The alarm company has given me written false alarm prevention techniques to help me prevent false alarms.
_____	_____	I understand it is my responsibility to prevent false alarms and I understand it is critical and my responsibility to assure that all users of the system (such as residents, employees, guests, cleaning people, and repair people) are trained on the proper use of the system.

ALARM COMPANY	CUSTOMER
_____	_____
Print name of representative	Print name
_____	_____



Signature	Signature
_____	
Title	
_____	_____
Date	Date

Secs. 143-45—143-59. - Reserved.

#### ARTICLE IV. - DANGEROUS BUILDINGS

Sec. 143-60. - Title.

This article shall be known and cited as the "Dangerous Buildings Code."

Sec. 143-61. - Definitions.

As used in this article, the following words and terms shall have the following meanings stated herein:

*Dangerous buildings* means any building or structure, residential or otherwise, that has one or more of the following defects or is in one or more of the following conditions:

- (1) A portion of the building or structure is damaged by fire, wind, flood or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the catastrophe and does not meet the minimum requirements of the North Carolina State Building Code, C.C. sections 143-6(a) and 143-7.
- (2) A part of the building or structure is likely to fall, become detached or dislodged, or collapse, and injure persons or damage property,
- (3) A portion of the building or structure has settled to such an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by the North Carolina State Building Code, C.C. sections 143-6(a) and 143-7.
- (4) The building or structure, or a part of the building or structure because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
- (5) The building or structure, or part of the building or structure, is manifestly unsafe for the purpose for which it is used.
- (6) The building or structure is damaged by fire, wind or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their

danger, or becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act.

- (7) A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition that the health office of the county determines is likely to cause sickness or disease, or is likely to injure the health, safety or general welfare of people living in the dwelling.
- (8) A building or structure is vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.
- (9) A building or structure remains unoccupied for a period of 180 consecutive days or longer, and is not publicly offered for sale by the owner and meets any of the following conditions:
  - a. It appears to the Building Inspector that the building, structure or grounds are not properly maintained, appears to be an attractive nuisance to children, or is in such dilapidated condition as to contribute to blight, disease or vagrancy or otherwise constitutes a public nuisance.
  - b. A secondary dwelling of the owner that is regularly unoccupied for a period of time of 180 consecutive days or longer each year, it appears to the Building Inspector that the building, structure or grounds are not properly maintained, appears to be an attractive nuisance to children, or is in such dilapidated condition as to contribute to blight, disease or vagrancy or otherwise constitutes a public nuisance.

*Enforcing agency* means the Division of Operations as delegated to the Tribal Building Inspector's Office ~~and/or such other official(s) or agency as may be designated by the Tribal Council to enforce this article.~~

Sec. 143-62. - Prohibition of dangerous buildings.

Any owner or agent keeping or maintaining any building or part thereof which is a dangerous building as defined in C.C. section 143-61 shall be unlawful.

Sec. 143-63. - Notice of dangerous building and hearing.

- (a) *Notice requirement.* Notwithstanding any other provisions of this article, if a building or structure is found to be a dangerous building, the enforcing agency shall issue a notice that the building or structure is a dangerous building.
- (b) *Parties entitled to notice.* The notice shall be served on each owner of or party in interest in the building or structure in whose name the property appears on the possessory holding as defined in C.C. 45-1.
- (c) *Contents of notice.* The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building and state that the person to whom the notice is directed shall have the opportunity at the hearing to show cause why the Hearing Officer should not order the building or structure to be demolished, otherwise made safe, or properly maintained.
- (d) *Service of notice.* The notice shall be in writing and shall be served upon the person to whom the notice is directed either personally or by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown at the Eastern Band of Cherokee Indians Enrollment Office. If a notice is served upon a person by certified mail, a copy of the notice shall also be posed upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least ten working days before the date of the hearing included in the notice.

Sec. 143-64. - Dangerous building hearing officer and duties, hearing procedures and enforcement order.



- (a) ~~Appointment of a Hearing officer. Rules approved by the Division of Operations pursuant to Chapter 150 shall provide for a~~ The Hearing Officer shall be appointed by the Tribal Council to hear initial appeals from owners of buildings sited as unsafe or dangerous serve at their pleasure. The Hearing Officer shall be a person who has expertise in housing matters, including, but not limited to, an engineer, architect, building contractor, building inspector, or member of a community housing organization. An employee of the enforcing agency shall not be appointed as a Hearing Officer.
- (b) ~~Filing dangerous building notice with hearing officer. The enforcing agency~~ is the Division of Operations shall file a copy of the notices of the dangerous condition of any building with the hearing officer.
- (c) *Hearing testimony and decision.* At a hearing prescribed by this article, the Hearing Officer shall take testimony of the enforcing agency, the property owner, and any interested party. Not more than five working days after completion of the hearing, the Hearing Officer shall render a decision either closing the proceedings or ordering the building or structure demolished, otherwise made safe, or properly maintained.
- (d) *Compliance with hearing officer order.* If the Hearing Officer determines that the building or structure should be demolished, otherwise made safe, or properly maintained, the Hearing Officer shall so order, fixing a time in the order for the owner, agent, or lessee to comply with the order. If the building is a dangerous building under C.C. subsection 143-61(a), the order may require the owner or agent to maintain the exterior of the building and adjoining grounds owned by the owner of the building, including, but not limited to, the maintenance of lawns, tress and shrubs.
- (e) *Noncompliance with Hearing Officer order/request to enforce order.* If the owner agent or lessee fails to appear or neglects or refuses to comply with the order issued under C.C. subsection 143-64(d), the Hearing Officer may enforce such orders the Tribal Court under rules adopted by the Division pursuant to Chapter 150. shall file a report of the finding and a copy of the order with the Tribal Council not more than five working days after noncompliance by the owner and request that necessary action be taken to enforce the order. A copy of the findings and order of the Hearing Officer shall be served on the owner, agent or lessee in the manner prescribed in C.C. subsection 143-63(d).

Sec. 143-65. ~~Enforcement hearing before the tribal council. (Rescinded and Reserved).~~

~~The Tribal Council shall fix a date not less than 30 calendar days after the hearing prescribed in C.C. subsection 143-64(d) for a hearing on the findings and order the Hearing Officer and shall give notice to the owner, agent and lessee in the manner prescribed in C.C. 143-63(d) of the time and place of the hearing. At the hearing, the owner, agent or lessee shall be given the opportunity to show cause why the order should not be enforced. The Tribal Council shall approved, disapprove or modify the order. If the Tribal Council approves or modifies the order, the Tribal Council shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent or lessee shall comply with the order within 60 calendar days after the date of the hearing under C.C. section 143-65. In the case of an order of demolition, if the Tribal Council determines that the building or structure has been substantially destroyed by fire, wind, flood or other natural disaster and the cost of repair of the building or structure will be greater than the state equalized value of the building or structure, the owner, agent or lessee shall comply with the order of demolition within 21 calendar days after the date of the hearing under C.C. section 143-65.~~

Sec. 143-66. - Implementation and enforcement of remedies.

- (a) *Implementation of order by Tribal Council.* In the event of the failure or refusal of the owner or party in interest to comply with orders of the enforcing agency or the decision of Tribal Council or court orders, the Division of Operations may Tribal Council may, in its discretion, contract for the demolition, make safe or maintaining the exterior of the building or structure or grounds adjoining the building or structure.
- (b) *Reimbursement of costs.* The costs of the demolition, of making the building safe, or of maintain the exterior of the building or structure or grounds adjoining the building or structure, incurred by the



Eastern Band of Cherokee Indians to bring the property into conformance with the Article shall be reimbursed to the Eastern Band of Cherokee Indians by the owner or party in interest in whose name the property appears.

- (c) *Notice of costs.* The owner or party in interest in whose name the property appears on the possessory holding as described in C.C. § 45-1 shall be notified by the Tribal Operations Program Manager of the amount the cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure, by first class mail at the address shown at the Eastern Band of Cherokee Indians Enrollment Office.
- (d) *Voluntary assignment for unpaid costs.* The owner or party in interest may enter into a voluntary assignment agreement for all or party of the amount scheduled disbursement in accordance with C.C. subsection 16C-5(e).
- (e) *Court judgment for unpaid costs.* Costs incurred by The Eastern Band of Cherokee Indians for may bring action against the owner or party in interest of the building or structure for the full cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure shall be deemed a debt to the Tribe. The Eastern Band of the Cherokee Indians shall garnish the owner's per capita distribution in the amount of the judgment obtained pursuant to C.C. subsections 16C-5(d)(2) and (3).

Sec. 143-67. - Penalties for nonconformance with order.

A person who fails or refuses to comply with an order approved or modified by the Tribal Council under C.C. section 143-65 within the time prescribed shall be found responsible for a civil infraction punishable by a fine not to exceed \$500.00. Each day that a violation shall continue shall constitute a separate offense. Additionally, the provisions of this article may also be enforced by suit for injunction, damages or other appropriate legal action.

Sec. 143-68. - Appeal of Tribal Council Decision.

Appeals of decisions or orders issued by the enforcing agency may be appealed according to the rules adopted pursuant to Chapter 150, the Administrative Procedures Act. An owner aggrieved by any final decision or order of the Tribal Council, as applicable, under C.C. section 143-65 may appeal the decision or order to the Cherokee Court by filing a petition for review within 20 calendar days from the date of the decision. The petitioner shall serve the petition and a copy of the transcript of the Tribal Council hearing on all parties. The standard of review by the Cherokee Court shall be as follows:

- (1) — Review of the record for errors of law;
- (2) — Ensure that procedures specified by law or ordinance are followed;
- (3) — Ensure that appropriate due process rights are protected including the right to offer evidence, cross-examine witnesses and inspect documents;
- (4) — Ensure that the decision is supported by competent, material and substantial evidence in the whole record; and
- (5) — Ensure that the decision is not arbitrary and capricious.

Sec. 143-69. - Severability.

The provisions of this article are declared to be severable and if any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by the Cherokee Court, it shall not affect the remainder of this article which shall continue in full force and effect.



Chapter 62 - UTILITIES

ARTICLE I. - IN GENERAL

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

- (a) ~~Inasmuch as~~ The Water and Sewer Operations and Maintenance Program (Program) within the Division of Operations (Division) Cherokee Water and Sewer Enterprise furnishes public water and sewer systems and utility services, and the users of the public systems shall be afforded a public comment period when any water and sewer rate rule is adopted by the Division. ~~periodic impartial review of the utility rates and charges. To carry out this review the Tribal Utility Rate Commission is hereby created.~~
- (b) ~~Membership shall consist of two business utility consumers and one residential utility consumer. Each member shall be appointed by the Tribal Council. Appointment shall be for three year terms, with terms to be staggered among the members. No member of the Commission shall be an elected Tribal official.~~
- (c) The Division~~Commission~~ shall be charged with the duty of publishing rules that conform with Chapter 150 in order to administer the laws and programs concerning all water and sewer systems. The rules shall address the frequency and process for reviewing the utility rates, connection charges and other fees charged for services by the utility, to determine the equity of such charges based on the essential operating requirements for ensuring all water and sewer systems conform to minimum standards of health and safety of the Cherokee Water and Sewer Enterprise, together with comparison of similar rates and charges of other comparable communities and utilities.
- (d) ~~The Commission shall be charged with the duty of setting the utility rates, connection charges and other fees for the utility.~~
- (e) ~~After setting rates, charges and fees, the Commission shall make a report to the Tribal Council for any adjustment or change which the Commission recommends to be made. Final authority for establishing or changing such rates, charges and fees shall be vested in the Tribal Council.~~
- (f) ~~All expenses incurred by the Commission shall be reviewed and authorized by the Tribal Credit Committee and shall be paid by the Tribe.~~
- (g) All private or institutional owners and possessory holders with buildings or facilities designed for human use that are within the service area of any tribal public water or sewer system ~~of the Cherokee Water and Sewer Enterprise at the time public notice is given that such services are available~~ shall be required to connect to the available system within one year from the date of such notice, unless connection may be required sooner where the Division Tribal or Indian Health Service authorities have has condemned individual water or sewer sanitation systems for being unsafe.
- (h) All private or institutional owners and possessory holders starting new construction after the date of public notice of availability of services shall be required to connect to the available system at the time of construction unless connection is not deemed feasible by the Division~~Enterprise~~.



- ~~(i) Questions of whether specific buildings or facilities can be feasibly served by either or both the Water and Sewer Systems of the Enterprise may be submitted to the Tribal Credit Committee. The Committee's determination on such questions shall be final.~~
- (j) The ~~Tribal Community Services Committee~~ shall appropriate one-half of one percent of the Tribal Levy, or an amount equal to 1/12 of the Levy, to be used exclusively for the operation and furtherance of the Tribal Cherokee public water and sewer systems Enterprise.

Sec. 62-2. - Disconnection of service.

- (a) The Program, Cherokee Water and Sewer Enterprise shall be authorized to disconnect services to any house or building when payment of service fees are not paid by the last day of the month in which a statement is rendered.
- (b) Rules shall be adopted by the Division for the Program to provide for a procedure for prior written notice before services are disconnected and for appealing decisions for disconnection of services or other actions taken by the Division. These rules shall conform to Chapter 150. Prior to disconnecting either water or sewer service to any house or building the Cherokee Water and Sewer Enterprise shall notify the customer that such service shall be disconnected on a specific date unless payment for services is brought current prior to that date.
- ~~(c) Prior to disconnecting either water or sewer service to any house or building, the Cherokee Water and Sewer Enterprise shall notify the customer that they may appeal to the credit committee to show cause why the service should not be disconnected.~~
- ~~(d) In the event any customer, occupant, owner, tenant or other person, after either water or sewer service has been disconnected by the Cherokee Water and Sewer Enterprise, shall reconnect such service, or in any way cause the Any person that connects to the tribe's public water or sewer system including connections to fire hydrants service to be reconnected to their house or building, without a permit issued by the Division, authorizing the connection without having first paid in full for past services and fees, including any disconnection or reconnection fees, they shall be assessed a fine civil penalty of \$5400.00, and service shall not be authorized reconnected until such fine penalty is paid.~~
- ~~(e) The Cherokee Court of Indian Offenses or any successor Cherokee Court shall have jurisdiction to enforce this section against all persons who violate its provisions.~~

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

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



~~(b) A base fee of \$100.00 will be charged for any amount of water up to 500 gallons obtained from a hydrant. Amounts in excess of 500 gallons will be charged at \$5.00 per 100 gallons, plus the base fee. The fees expressed in this subsection shall apply anew to each individual hydrant withdrawal request.~~

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

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

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

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

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

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

(4d) In the event of unauthorized use.

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

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

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

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

Sec. 62-6. - Sealing meters.

Seals may be employed to prevent tampering.

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

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

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

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

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

Secs. 62-8—62-10. - Reserved.

~~ARTICLE I A. APPENDIX~~

~~CHEROKEE WATER & SEWER TRIBAL ENTERPRISE  
RATE STRUCTURE FISCAL YEAR 2009  
EASTERN BAND OF CHEROKEE INDIANS  
P.O. BOX 547  
CHEROKEE, NC 28719  
Phone: (828) 497-5555~~

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

~~WATER~~

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

~~A. RESIDENTIAL RATES:~~

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

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

~~B. COMMERCIAL:~~

~~User Fee ..... 15.00~~

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

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

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

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

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

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

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

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



User Fee ..... 30.00

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

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

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

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

E. ~~LATE FEE \$7.15~~

**WATER CONNECTION SCHEDULE:**

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

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

	2" Meter	800.00*
	4" Meter	800.00*
	6" Meter	1,000.00*
*Plus labor and materials		

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

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

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

#### ~~SEWER~~

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

##### ~~A. RESIDENTIAL RATE:~~

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

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

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

##### ~~B. COMMERCIAL:~~

~~User Fee ..... 15.00~~

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

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

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

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

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

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

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

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

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

~~User Fee ..... 30.00~~

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

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

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

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

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

~~SEWER CONNECTION SCHEDULE:~~

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

~~IN SERVICE SEWER TAP FEES:~~

<del>4" Tap</del>	<del>\$—500.00</del>
<del>6" Tap</del>	<del>—600.00</del>
<del>8" Tap</del>	<del>—1,000.00</del>

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

<del>4" Tap</del>	<del>\$1,000.00</del>
<del>6" Tap</del>	<del>—1,200.00</del>
<del>8" Tap</del>	<del>—2,000.00</del>



#### COMMERICAL OUT OF SERVICE SEWER TAP FEES:

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

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

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

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

#### DEPOSITS AND RECONNECTION FEE:

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

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

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

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

#### MONTHLY STATEMENTS:

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

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

#### CONTINUITY AND GUARANTEE OF SERVICE:

The Water and Sewer manager will exercise reasonable care in the maintenance and operation of the systems, ~~BUT DOES NOT GUARANTEE THAT SERVICES WILL BE CONSTANT. INTERRUPTION~~



~~OF SERVICES CAUSED BY FIRES, STORMS, FLOODS, ACCIDENTS, BREAKDOWNS, OR OTHER CAUSES SHALL NOT RENDER THE TRIBE LIABLE FOR DAMAGES.~~

~~SERVICE CONNECTION LIMITATIONS:~~

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

~~MAINTENCE AND REPAIR OF WATER SEWAGE SERVICE LINE:~~

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

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

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

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

~~CHEROKEE WATER & SEWER TRIBAL ENTERPRISE~~

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

~~SECTION A~~

~~APPLICATION FOR SERVICE:~~