

TITLE 18
CODE ENFORCEMENT

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Chapter 18.01

GENERAL PROVISIONS

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18.01.010 Purpose

The Code Enforcement is essential to the public health, safety, welfare, and overall well-being of the livability of the Nisqually Tribal Community. The purpose of this Code is to ensure compliance with existing and future adopted tribal codes and regulations.

18.01.020 Applicability

This Title shall apply to the enforcement of Nisqually Tribal Codes and Regulations, the violation of which is declared to be a nuisance:

Title 1 Nisqually Tribal Code (NTC), Open Meetings and Conduct of Officials;

Title 4 NTC, Animal Control;

Title 5 NTC, Public Health Code;

Title 14 NTC, Environmental and Natural Resources;

Title 16 NTC, Off Road Vehicles;

Title 18 NTC, Code Enforcement

Title 26 NTC, Labor and Employment;

Title 29 NTC, Liquor;

Title 30 NTC, Commercial Marijuana Activity;

Title 42 NTC, Employment Rights - Amendment 1;

Title 45 NTC, Tribal Buildings, Properties and Public Works;

Title 54 NTC, Building Codes;

All Regulations adopted pursuant to the above Titles; AND

All Resolutions adopted by the Nisqually Tribal Council that indicated they can be enforced by this Title.

This Title shall also apply to the following additional public nuisances:

Any public nuisance as defined by Nisqually Tribal and/or Washington State Statute or set forth in the case law of either jurisdiction;

Any attractive nuisance whether in a building, on the premises of a building, or on an unoccupied lot. This includes any abandoned wells, shafts, basements, or excavations; abandoned refrigerators and junk vehicles, as defined in this chapter; or any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard;

The existence of any dead, diseased, infested, or dying trees which may constitute a danger to property or persons;

The existence of any tree, shrub or foliage, unless by consent of the Tribe, which is apt to destroy, impair, interfere or restrict:

Roads, sidewalks, sewers, utilities or other public improvements, or

Visibility, or free use of, or access to such improvements.

The existence of any vines or climbing plants growing into or over any road, public hydrant, pole or street light, or the existing of any shrub, vine or plant growing on, around, or in front of any hydrant, stand pipe, sprinkler system connection or any other appliance or facility provided for fire protection purposes in such a way as to obscure the view thereof, or impair the access thereto;

The existence of any obstruction (including snow or ice that has been plowed into or across a road, alley, crossing or sidewalk) to a road, alley, crossing or sidewalk, which is by ordinance prohibited, or which is made without lawful permission, or which having been made by lawful

permission, is kept and maintained after the purpose therefore has been accomplished, and for an unreasonable length of time;

The existence of any lawn, grass or weed, that has not been mowed, cut, or trimmed and has gone to seed;

The erecting, maintaining, using, placing, depositing, leaving or permitting to be or remain in or upon any private lot, building, structure, or premises, or in or upon any road, alley, sidewalk, park, parkway, or other public or private place on the reservation, any one or more of the following: disorderly, disturbing, unsanitary, fly-producing, rat-harboring, disease-causing places, conditions, or objects;

Any bottles, cans, glass, ashes, small pieces of scrap iron, wire, metal, tires, articles, broken stone or cement, broken crockery, broken glass, broken plaster and all such trash, or abandoned material, unless it is kept in approved covered bins or receptacles;

Any trash, litter, rags, accumulations, or empty barrels, boxes, crates, packing cases, mattresses, bedding, straw or other packing materials, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, or anything whatsoever in which flies or rats may breed or multiply, or which may be a fire hazard;

The depositing or burning or causing to be deposited or burned in any road, alley, sidewalk, park, parkway, or other public place which is open to travel, any hay, straw, paper, wood, boards, boxes, leaves, manure, or other rubbish or materials;

The existence of any pits, potholes, or holes which would endanger safety;

The existence of any conditions that would produce dust or noxious odors; provided, that nothing herein shall be prohibited when done in conjunction with a construction project for which a building permit has been issued and is being prosecuted diligently to completion, and the contractor or owner shall be responsible for dust control throughout the development area;

The existence of any fence or other structure or thing on private property abutting or fronting upon any public road, sidewalk, or place which is in a sagging, leaning, falling, decaying, or other dilapidated or unsafe condition;

Unlawful disposal sites. It is unlawful for anyone to deliver and/or deposit any garbage or rubbish generated within on or off the reservation at any disposal site other than at a site designated by the director of planning;

Buildings found substandard pursuant to the Nisqually Building Code, the International Building Code, the International Residential Building Code, and/or the International Property Maintenance Code;

Any structure that is secondary to a home upon a lot that is being used as habitable space without have had an inspection done by the Tribe to confirm that the space is safe for habitation and the Tribe having issued a permit authorizing such use;

Vehicles, boats and trailers, on property for sale. The placing or parking along street and road rights-of-way or in direct and plain view thereof any vehicle, licensed or unlicensed, boat, trailer, motor-home, mobilized equipment or machinery, recreational vehicle and equipment placed or parked on property that is owned by someone that is other than the owner of the vehicle, trailer, motor-home, etc. for the purpose of selling the same;

Any recreational vehicle, camper, park model or other vehicle that is being used as living space without a current camping permit. The connection to utilities will create a rebuttable presumption that such vehicle is being used as living space;

Any "Junk Vehicle." The definition of "junk vehicle" is a vehicle intended to be self-propelled and used for the transport of people, goods, and/or services.

In addition to the above definition, a vehicle must meet at least three of the following to be a "junk vehicle"

Is three (3) years old or older;

Is extensively damaged, such damage including, but not limited to, any of the following:

A broken window or windshield;

Missing wheels or tires; or

Missing motor, or transmission;

Is without a valid, current license plate or certificate of registration;

Is apparently inoperable;

Has an approximate fair market value equal only to the approximate value of the scrap in it.

This definition of a "junk vehicle" shall not apply to:

A vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the road or other public or private property; or

A vehicle which is actively being restored, repaired, or reconditioned. A property shall only have one vehicle under this exception. If the project is not completed within two years, the vehicle must be removed as provided herein.

Any existing excavation or embankment or fill that has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way or drainage channel;

All "litter" and "potentially dangerous litter" as defined in Section 70A.200.030 RCW. The definition of "Potentially dangerous litter" is amended to include any litter which is disposed of in such a way as to create a fire hazard, such as any material which is still burning at the time of disposal.

The purchase, sale, or discharge of any "Fireworks" (any composition or device designed to produce a visible or audible effect by combustion, deflagration, or detonation, and which meets the definition of articles pyrotechnic or consumer fireworks or display fireworks) except as allowed by Tribal Council Resolution.

It is unlawful and a violation of this chapter for any person, firm, or corporation found guilty of having created, or suffering to exist on premises either owned or leased by them, any nuisance defined herein. Owners remain liable for violations of duties imposed by this chapter jointly and severally of any obligation imposed on the occupants of the premises; it is irrelevant to this chapter that an owner, by agreement, imposed on the occupant the duty of complying with this chapter,

Successive property owners are liable for abatement of nuisances created by their predecessors in interest. No right can be acquired to continue a nuisance by virtue of its longtime existence. It shall not be necessary to show that the owner participated in, or was even aware of, the code violation in order to hold him/her liable.

Violations of the applicable codes shall be corrected under the provisions of this Title, in coordination with existing ordinance and code provisions.

18.01.030 Enforcement

Only an authorized official may enforce the provisions of this Title. For purposes of this Title, an authorized official is defined as any of the following:

Nisqually Police Officers including Community Resource Officers shall have the authority to enforce the provisions of this Title.

Nisqually Fish and Wildlife Officers shall have authority to enforce the provisions of this Title.

The Directors of the Nisqually Tribal Planning Department and Building Department and their authorized representatives shall have the authority to enforce the provisions of this Title as to violations of all building and zoning codes and ordinances as adopted by Nisqually Tribal.

The Nisqually Prosecuting Attorney shall have the authority to enforce the provisions of this Title and may institute any legal proceedings necessary to enforce the provisions of this Title.

The Nisqually Tribal Council may designate other persons to administer the provisions of this Title. Designation of enforcement officers shall be made by resolution and may designate persons by name or position.

18.01.040 Infractions designated

The violation of any provision of the applicable codes or sections or the presence of a nuisance, as set forth in NTC 18.01.010 ("violation"), shall constitute a civil infraction. Each such violation shall constitute a separate civil infraction for each and every day or portion thereof during which such violation is committed, continued, or permitted.

18.01.050 Crimes designated

Any person who:

Commits a violation as set forth in NTC 18.01.010 on two or more days within any twelve-month period shall be guilty of a class III offense. Such a violation shall carry a minimum term of confinement of one (1) month (30 days) and a maximum period of confinement of three months (90 days); a person guilty of a class III offense may also be required to pay a fine of not more than \$1,000.00..

Having had a prior code convictions and/or findings of having committed code infractions under this Title and thereafter commits a subsequent violation as set forth in NTC 18.01.010 within ten years shall be guilty of a Class I offense. Such an offense shall carry a minimum term of confinement of six months (180 days) and maximum term of one year (365 days). In addition to a term of confinement, a person convicted of a class I offense may also be required to pay a fine of not more than \$5,000.00

18.01.060 Inspection

The director or his/her designee may make inspection from public roads or alleys, or may enter upon private property with the consent of the owner or occupant thereof to make inspections and also to abate conditions as provided in sections 18.01.010 and/or 18.05.030. If entry to property is refused and the same is necessary to be had the Tribe may use any lawful means necessary to obtain entry.

Upon written notice of intent to seek a search warrant, when a tenant/occupant or landlord/owner denies the director or his/her designee the right to search a premises, the tribe may immediately seek a search warrant, upon a showing of probable cause specific to the premises sought to be searched that code and/or statutory violations exist upon the premises

chargeable as a criminal violation pursuant to NTC section 18.01.040, the Nisqually Tribal Court shall issue a warrant allowing a search of such premises.

Probable cause that a multi-day violation exists that would be chargeable as a misdemeanor pursuant to NTC 18.01.040 requires that the inspecting Tribal employee, on at least two (2) separate days, either observed conditions constituting a violation under this chapter or was refused entry upon premises to inspect for such a violation after receiving information reasonably leading him/her to believe such violations existed.

Either the observation of multi-day violations or the multi-day denial of entry after receipt of information as to suspicious conduct shall be attested to by sworn affidavit.

The Nisqually Tribal Court have jurisdiction to issue such search warrant. Evidence obtained pursuant to any such search may be used in a criminal, civil, or administrative enforcement action.

Chapter 18.02

INFRACTION CORRECTIVE ORDERS

Sections

18.02.010 Violations - Enforcement

18.02.020 Order to correct violation

18.02.030 Notice of infraction

18.02.040 Failure to comply

18.02.010 Violations - Enforcement

Except as provided in this Title, any authorized official under 18.01.030 NTC may investigate alleged or apparent violations of this Title.

If an authorized official makes a determination that a violation has occurred or is occurring, that official may:

Pursue reasonable attempts to secure voluntary correction by issuing an order to correct violation; or

Issue a notice of infraction if that official reasonably believes a violation has occurred; or

Refer the matter to the Prosecuting Attorney, who upon his or her review, may file a notice of infraction or criminal complaint under the procedures of Title 24.

Nothing in this Chapter shall limit the ability of the authorized official to pursue other corrective actions as allowed by law.

18.02.020 Order to correct violation

Purpose. An order to correct violation may be issued in an effort to secure voluntary correction within a reasonable amount of time as determined by the authorized official.

Order to correct violation – Contents

The order to correct violation should contain:

The name and address of the landowner or the other person(s) to whom the order to correct violation is directed; and

The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and

A description of the violation and a reference to that provision of the ordinance or code which is alleged to have been violated; and

A statement of the action required to be taken to correct the violation and a date or time by which correction is to be completed; and

A statement that failure to respond to the order to correct violation, within a defined and listed amount of time assessed as reasonable by the authorized official, may result in the issuing of a notice of infraction or possible criminal charges and the commencement of a monetary penalty in an amount per day for each violation to whom the order to correct violation is directed for each and every day, or portion thereof, on which the violation continues following the date set for correction; and

Notice that multi-day violations are chargeable as crimes under 18.01.050 NTC; and

The signature of the authorized official who issues the order to correct violation.

Order to correct violation - Service

The order to correct violation is issued to the landowner or to any person causing, allowing, or participating in the alleged violation. The order to correct violation shall be served upon the person to whom it is directed by either:

personal service of an authorized official pursuant to 18.01.020 NTC; or

by mailing a copy of the order by certified mail, postage prepaid, return receipt requested, to such person at his/her last known address.

Where practical, a copy of the notice should be posted on the affected property or structure. Posting a copy of the notice is not, however, a requirement of proper service.

The failure of the landowner or person causing, allowing or participating in the alleged violation to receive such Order to Correct shall not affect the validity of any proceedings taken under this Chapter. Service by certified mail in the manner provided in this section shall be effective on the third day after the date of postmark, excluding Saturdays, Sundays and holidays.

Order to correct violation - Extension of Time

Upon written agreement between an authorized official and the party allegedly in violation, the parties may agree to an extension of time to correct the violation.

The extension of time shall include a date certain in the future upon which correction of the violation is to be complete.

The extension of time shall be granted only upon a showing of good cause as demonstrated in the written agreement. Among others, factors to be considered are:

Substantial completion of the necessary correction;

Unforeseeable circumstances which render completion of the necessary correction impossible by the date established;

A proposed phase removal plan that extends beyond the established correction date.

18.02.030 Notice of infraction

An authorized official may issue a notice of infraction where that official has probable cause to believe, and does believe, that a violation has occurred or is occurring.

Notice of Infraction - Contents

A notice of infraction form that shall contain the following:

A statement indicating a determination has been made that the civil infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this Title;

A statement of the specific civil infraction(s) alleged to have been committed for which the notice of infraction was issued and a reference to the code section allegedly violated;

The date(s) the violation was observed;

Address or sufficient description of the property at which the violation allegedly occurred;

A statement that the civil infraction is a noncriminal offense for which imprisonment shall not be imposed as a sanction;

A statement that a person's failure to respond to a notice of infraction as promised shall result in a finding against them that they committed the violation and imposition of the full fine;

A list of options provided in this ordinance for responding to the notice of infraction and the procedures necessary to exercise these options;

A statement that at any hearing to contest the determination of infraction, the burden is on the Tribe to establish that the infraction was committed by preponderance of the evidence and that the person may produce witnesses and subpoena the authorized official who issued and/or served the notice of infraction;

A statement that the person alleged to have committed the infraction promises to respond to the Notice of Infraction in a manner consistent with this title, and a space for the alleged violator's signature;

A statement that refusal to sign the infraction as directed shall constitute a determination that the person to whom the notice was issued committed the infraction;

The amount of the penalty for the alleged infraction;

Statement that if the violation is a nuisance and is not corrected, that the Tribe can abate the nuisance and that the infraction penalty, abatement costs, and all associated legal costs and fees can become a lien against the property as well as a joint and several judgment against the owners and that the Tribe can foreclose upon that lien, also obtaining reimbursement for its foreclosure costs, against the property;

The name, signature, address, and phone number of the authorized official issuing the notice of infraction as well as the time and place the notice was issued; and

A statement that multi-day violations can be charged as crimes.

Notice of Infraction – Service

An authorized official may issue a notice of infraction if that official has probable cause to believe, and does believe, that the provisions of an applicable ordinance has been violated. A notice of infraction may be served either by the citing officer personally at the time of issuance or by the Court by mail, postage prepaid, on the person named in the notice of infraction at his or her last known address.

Notice of Infraction – Filing

A notice of infraction shall be filed in Nisqually Tribal Court which shall have jurisdiction to hear and determine these matters.

Notice of Infraction – Determination

A notice of infraction represents a determination that the person to whom the notice was issued committed the infraction unless contested under the provisions of this Title.

Notice of Infraction-Notice of Lien

The Notice of Infraction shall constitute a Notice of Lien in case the matter ultimately results in abatement and a lien for such abatement costs.

Notice of Infraction - Procedure

A person who has been served with a notice of infraction shall respond to the notice as provided within this section within fifteen days of the date the notice was served.

If the person fails to respond, the court shall enter an order finding that the infraction was committed and assess the monetary penalties provided for by law.

Notice of Infraction - Scheduling of Hearings

If the person responds by requesting a hearing, then the court shall follow schedule the requested hearing no less than fourteen (14) days after receiving the response.

18.02.050 Failure to comply

Any person violating his or her promise to appear in court or failing to respond to the notice of infraction shall be in default. The Court shall enter a finding of committed as to all alleged violations and impose the full fine authorized by law.

A person who willfully fails to pay a monetary penalty as required by a court under this chapter may be found in civil contempt of court after notice and hearing. Further, delinquent accounts with the court may be referred to an agency for collection.

Any person subject to criminal proceedings under this Title may be represented by a lawyer. If the person named on the notice of infraction qualifies, he or she may be represented by court-appointed counsel.

Chapter 18.03

INFRACTION HEARINGS

Sections

18.03.010 General Procedures

18.03.020 Contested hearing

18.03.030 Mitigated hearing

18.03.010 General Procedures

Based upon the request of the Defendant the court shall set a Contested or Mitigated hearing. At either hearing, citing officer's sworn statement including any attachments shall be admitted.

18.03.020 Contested hearing

(a) Subpoena. The defendant and the prosecuting attorney may subpoena witnesses necessary for the presentation of their respective cases. Witnesses should be served at least seven (7) days before the hearing. The subpoena may be issued by a judge or the clerk of the court or by the Prosecuting Attorney. The judge or clerk shall issue a subpoena upon motion of the defendant for the citing officer to be present at the hearing. The Court shall issue subpoenas for other witnesses if the court finds their presence is necessary for the presentation of the respective cases. A subpoena may be served by first-class mail, postage prepaid, sent to the witnesses' last known address. Service by mail shall be deemed complete upon the third day following the day upon which the subpoena was placed in the mail.

(b) Discovery. Upon written demand of the defendant at least fourteen (14) days before a contested hearing, filed with the court and served on the office of the prosecuting authority, the prosecuting authority shall at least seven (7) days before the hearing provide the defendant or the defendant's lawyer with: (1) a copy of the citing officer's sworn statement including any attachments; (2) a copy of video or photographic evidence the prosecutor proposes to introduce at trial, unless in reply to the discovery request the prosecutor provides the address to a web site where such evidence is accessible to the defendant; and (3) the names of any witnesses not identified in the citing officer's sworn statement. No other discovery shall be required. If the prosecuting authority provides any portion of the discovery less than 7 days before the hearing, such untimely discovery shall be suppressed only upon a showing of prejudice in the presentation of the defendant's case. Neither party is precluded from investigating the case, and neither party shall impede another party's investigation. A request for discovery pursuant to this section shall be filed on a separate pleading and must include an email address that the response will be accepted at.

(c) Amendment of Notice. The court may permit a notice of infraction to be amended at any time before judgment if the substantial rights of the defendant are not thereby prejudiced. A continuance shall be granted if the defendant satisfies the court that the additional time is needed to defend against the amended notice of infraction.

(d) Sufficiency. No notice of infraction shall be deemed insufficient for failure to contain a definite statement of the essential facts constituting the specific infraction which the defendant is alleged to have committed, nor by reason of defects, imperfections, or omissions which do not tend to prejudice substantial rights of the defendant.

(e) Sanction. If the court determines that the infraction was committed, it shall:

Assess the full monetary penalty per Section 18.05.010 NTC, unless a lesser penalty is requested by the Tribe; and Order the individual to correct the violation, and enter such an order into the court's records.

All appeals of the court's determination shall be according to Title 24.

18.03.030 Mitigated hearing

(a) Generally. The court shall conduct the hearing concerning mitigating circumstances in accordance with applicable law.

(b) Procedure at Hearing. The court shall hold an informal hearing which shall not be governed by the Rules of Evidence. Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the judge, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. The plaintiff and the defendant may each be represented by a lawyer. The defendant may present witnesses, but they may not be compelled to attend.

(c) Disposition. The court shall determine whether the defendant's explanation of the events justifies reduction of the monetary penalty. The court shall enter an order finding the defendant committed the infraction and may assess a monetary penalty. The court may not impose a penalty in excess of the monetary penalty provided for the infraction by law. The court may waive or suspend a portion of the monetary penalty, or provide for time payments, or in lieu of monetary payment provide for the performance of community restitution as provided by law. The court has continuing jurisdiction and authority to supervise disposition for not more than one (1) year.

A disposition consistent with this subsection cannot be appealed.

Chapter 18.04

PENALTIES

Sections

18.04.010 Infraction Penalties

18.04.020 Criminal Penalties

18.04.030 Abatement

18.04.010 Infraction Penalties

A person found to have committed a civil infraction shall be assessed a monetary penalty. Except as otherwise required by law, the maximum penalty and default amount is \$500 for each day of violation under this Title, not including statutory assessments, and the minimum

penalty shall be \$250 for each day of violation under this chapter, not including statutory assessments. The court may not reduce, waive, or suspend the monetary penalty below the stated minimum.

Each and every day of violation is a separate civil infraction subject to the above per-day penalty.

A person found to have committed a civil infraction shall be ordered to correct the violation. Failure to do so may result in an abatement action.

Whenever a monetary penalty is imposed by the Tribal Court under this Title, it is immediately payable to the Tribe. If the person is unable to pay at that time, the Court may grant an extension of the period in which the penalty may be paid. The extension may not be more than ninety (90) days. If the penalty is not paid on or before the time established for payment, the Court may proceed to collect the penalty in the same manner as other civil judgments and shall notify the prosecuting attorney of the failure to pay. Upon motion of the prosecuting attorney, the Court shall order garnishment of the Defendants wages and per capita. The Court shall also notify the Tribe of the failure to pay the penalty, and the Tribe shall not issue the person any future permits, or license to engage in any activities and/or work until the monetary penalty has been paid in full.

The court may also order restitution be paid to a damaged party by the person found to have committed the infraction.

Any person who, through an act of commission or omission procures, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.

Nothing in this Title limits the right of the Tribe to pursue other lawful remedies to fees, fines and costs imposed by this Title.

18.04.020 Criminal Penalties

Criminal enforcement shall be governed by Title 24. Provided that when the violation is nuisance under NTC 18.01.010, if the Court suspend any of the sentence, the conditions shall include abatement of the nuisance.

18.04.030 Abatement

When the violation is nuisance under NTC 18.01.010 and the unsuccessful defendant has not complied with the portion of the Court order prescribing correction and the applicable appeal period has expired; the Tribe may proceed with an abatement action.

Upon motion of the Tribe, the Court shall decide whether or not the defendant has complied with the Court order requiring correction. If not, the Court shall issue a warrant of abatement authorizing the Tribe to abate the nuisance at the expense of the party causing the nuisance and to levy a special assessment against the involved real estate to defray costs and reimburse

the Tribe for its abatement costs. Additionally expense may be added to penalty and collected as authorized in NTC 18.05.010.

Such special assessment, along with any civil penalties and costs shall constitute a lien against the property upon which the violation occurred that shall be of equal rank with state, county, and municipal taxes.

An authorized official shall cause a claim of lien to be filed for record in the Auditor's Office in the County where the property is located after completion of the abatement performed pursuant to this Title.

The claim of lien shall contain the following:

The authority for imposing a civil penalty and/or proceeding to abate the violation;

A brief description of the civil penalty imposed or the abatement work done, or both, including the violations charged and the duration thereof, including the time the work is commenced and completed and the name of the persons or organizations performing the work;

A description of the property to be charged with the lien;

The name of the known owner or reputed owner, and if not known the fact shall be alleged; and

The amount, including lawful and reasonable costs, for which the lien is claimed.

No lien created by this Title binds the property subject to the lien for a period longer than ten years after the claim has been filed unless an action is commenced in the proper court within that time to enforce the lien.

Liens created under this Title shall bear interest at the rate of 12 percent per annum and such interest shall accrue as of the date notice of the lien is sent to the property owner.

Chapter 18.05

LEGAL PROVISIONS

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18.05.010 Nature of infraction proceedings.

18.05.020 Legal costs infractions.

18.05.030 Severability and Saving.

18.05.040 Conflicts.

18.05.050 Other Lawful Remedies.

18.05.010 Nature of infraction proceedings

Any finding or order that an infraction has been committed under the provisions of this Title is civil in nature.

18.05.020 Legal costs of infractions

Except where explicitly stated in this Title, each party in a civil infraction case is responsible for attorney fees and costs incurred by that party.

18.05.030 Severability and Saving

If any provision of this chapter or its application to any person or property is held invalid, the remainder of this chapter or the application of the provision to other persons or property is not affected and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

18.05.040 Conflicts

If any provision of this Title or its application to any person or property is in conflict with any other provision of Tribal Code or Court Rule, including procedural rules; then the provision contained within this Title shall control.

18.05.050 Other Lawful Remedies

Nothing in this code limits the right of the Tribe to pursue other lawful criminal, civil or equitable remedies to abate, discontinue or correct violations of this Title.

Chapter 18.06 VEHICLE IMPOUND

Sections

18.06.010 Law Enforcement Impound

18.06.020 Timing

18.06.030 Prohibited Vehicles

18.06.010 Law Enforcement Impound

If a vehicle is in is found on public property including trust land within the exterior boundaries of the reservation, it may be impounded by a registered tow truck operator at the direction of a Nisqually law enforcement officer or other Nisqually public official authorized to enforce this Title by NTC 18.01.020.

18.06.020 Timing

Nisqually law enforcement officer or other Nisqually public official may immediately authorize the impound of a vehicle constituting an accident or traffic hazard, or if the vehicle is on residential property without the current resident's permission, or is in an area with posted parking restrictions that have been violated, or if the officer has given notice to the person in control of said vehicle or the vehicle's owner.

In any other case, Nisqually law enforcement officer or other Nisqually public official can authorize impound of a vehicle after posting notice on the vehicle twenty four (24) hours prior to authorizing the impound.

18.06.030 Prohibited Vehicles

A Nisqually law enforcement officer may by either giving actual notice to the owner of a vehicle or by posting such notice on a vehicle prohibit the vehicle from thereafter coming onto the reservation. A vehicle so prohibited may be immediately impounded any time it is found within the exterior boundaries of the reservation, excepting if the title of the vehicle has been transferred to a new owner since the prohibition was issued.

Chapter 18.07

CAMPING

Sections

18.07.010 Purpose

18.07.020 Moratoriums Authorized

18.07.030 Camping Permits

18.07.010 Purpose

a) The purpose of this ordinance is to preserve the use of Tribal Lands for the use of Nisqually Tribal members and their invitees who shall respect the land, and to assert Tribal preference for Nisqually Tribal members to camp on their Reservation over others.

b) The purpose of this ordinance is also to prevent vandalism, malicious mischief, drug abuse, violence, and other crime in the wooded areas and other isolated places which exist within the exterior boundaries of the Nisqually Reservation

18.07.020 Moratoriums Authorized

a) The Nisqually Tribal Council finds that it is in the best interest of the Tribe, from time to time and when circumstances warrant, to proscribe and prohibit camping by non-Indians. The Nisqually Tribal Council shall be authorized to consider and implement a moratorium of camping by non-Indians within the exterior boundaries of the Nisqually Reservation, on any

part of the Reservation or throughout the Reservation. If the Nisqually Tribal Council has closed the reservation, that closure shall function as a moratorium.

b) No moratorium on camping made by the Tribal Council may apply to any Nisqually Tribal member.

c) Camping on the Nisqually Reservation in violation of a duly authorized moratorium of camping shall constitute a nuisance and be enforceable under this Title.

18.07.030 Camping Permits

a) The Nisqually Police Department shall be authorized to issue camping permits to any Nisqually Tribal member aged 18 years or older.

b) Whenever a moratorium of camping created by the Tribal Council does not exist, the Nisqually Police Department shall be authorized to issue camping permits to any non-member aged 18 years.

c) The Chief of Police or the Tribal Council may cause rules to be created for the issuance of camping permits, and shall make any such rules available to any Tribal member who requests them, however:

1. No Tribal member may be charged a fee for camping without the approval of the Tribal Council, but the Chief of Police may create rules to charge anyone the real costs of damage caused by any activity related to the camping permit or the lack thereof, and;
2. Tribal members may not interfere with the use of a properly issued camping permit, but shall be preferred over any other person who may be eligible for a camping permit, and;
3. A permit holder shall be jointly and severally liable for any damages caused by their invitees to any Tribal land, Tribal property, or the land and/or property of a Tribal member, and;
4. The Nisqually Tribe shall not waive any claim of sovereign immunity in any rule regarding camping by non-Indians or others within the exterior boundaries of the Nisqually Reservation.

d) Camping without a permit or in violation of the terms of a permit shall constitute a nuisance and be enforceable under this Title.