

## **Title 9 LAW AND ORDER**

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### **Chapter 9.04 ANIMAL CONTROL <sup>[1]</sup>**

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#### **9.04.010 Purpose.**

The purpose of this chapter is to provide regulations to control animal conduct so that such conduct will not constitute a nuisance; provide means of identification of dogs in case of injury or misconduct, establish guidelines for those who are responsible for animals and provide a program of enforcement through the Office of Housing and Tribal Police Department.

(Res. No. 09-40, 4-23-09)

#### **9.04.020 Definitions.**

In construing the provisions of this chapter, except where otherwise plainly declared or clearly apparent, words herein shall be given their common and ordinary meaning. In addition, the following definitions shall apply:

"Abatement" means termination of any violation by reasonable and lawful means determined by the animal control authority in order that a person or persons presumed to be the owner will comply with this chapter.

"Adult dog" means any member of the dog family past the age of six months.

"Animal," for the purpose of animal control, means any non-human member of the mammal class, reptile, bird or amphibian.

"Animal control authority" means the Squaxin Island Tribal Council or their designee.

"Animal control officer" means any Squaxin Tribal Police Officer or employee of the Office of Housing known as housing enforcement officer, authorized by the Tribal Council and specially commissioned by the chief of police to enforce the provisions of this title.

"Animal cruelty" means he or she intentionally:

1. (a) Inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on an animal.
2. (a) Fails to provide the animal with necessary shelter, rest, sanitation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure. (b) Abandons the animal and as a result of being abandoned, the animal suffers bodily harm or creates an imminent and substantial risk that the animal will suffer substantial bodily harm.

"Animal welfare organization" means an organization which regularly engages in the practice of acquiring or transferring animals for the purpose of animal welfare; which includes protecting or caring for animals, returning animals to their natural habitat, or placing animals for adoption.

"At large" means off the premises of the owner or keeper of the animal, and not under restraint by leash or chain eight feet in length or shorter.

"Dangerous dog" means any animal that:

1. Aggressively bites, attacks, or endangers the safety of humans or domestic animals;
2. Has inflicted severe injury on a human being without provocation;
3. Has killed a domestic animal without provocation; or
4. Has been previously found to be potentially dangerous, the owner having received notice of such and the animal again aggressively bites, attacks, or endangers the safety of humans or domestic animals.

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"Domesticated animal" means an animal in a tame condition either by training, breeding or natural propensity or disposition which is maintained to enhance pleasure, welfare or aesthetic means of an owner.

"Euthanasia" means human destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that causes painless loss of consciousness and death during such loss of consciousness.

"Guard dog" means adult member of the dog family which has been trained to protect persons and property by virtue of exhibiting hostile propensities and aggressiveness to unauthorized persons.

"Guide dog" (or "service dog") means a dog which is working in harness, trained and approved for the purpose of guiding blind persons or assisting hearing impaired persons.

"Impound" means to receive into the custody of the animal shelter or into the custody of an animal control officer.

"Livestock" means any horses, ponies, bovine animals, sheep, rams, lambs, goats, kids, mules, jacks, jennys, domesticated hares, rabbits.

"Nuisance" means any domesticated animal that destroys or causes damage to public or private property not of its owner's or keepers.

"Owner" means any person, firm, corporation, organization, trust, or partnership possessing, harboring, keeping, having an interest in, or having control, custody, or possession of an animal.

"Pack" means two or more dogs running together on either public or private lands, not of their owner's, when such dogs are not restrained or controlled.

"Police dog" the definition of "police dog" in RCW 4.24.410, including all future amendments, additions, or deletions, is adopted by reference.

"Potentially dangerous dog" means any dog which:

1. Unprovoked, bites or injures a human or domestic animal on public or private property;
2. Unprovoked, chases or approaches a person or domestic animal upon the streets, sidewalks, or any public or private property in a menacing fashion or apparent attitude of attack; or
3. Has a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of humans or domestic animals.

"Poultry" means domestic fowl normally raised for eggs or meat, and includes chickens, turkeys, ducks, and geese.

"Premises" means the area of land surrounding a house or dwelling unit and actually or by legal construction forming an enclosure with it and to which the owner of an animal has legal and equitable right therein. In addition automobiles, trucks or farm wagons are also premises.

"Severe injury" means any physical injury that results in (a) broken bones, (b) muscle, ligament, or tendon tears, (c) skin lacerations or puncture wounds which require sutures or surgery, or (d) transmission of an infectious or contagious disease.

"Surrendering of animal" means the owner of a licensed dog may surrender the ownership rights of the animal to an animal control officer for the purpose of adoption and or euthanasia and cremation.

"Special circumstances" means if established by the owner by a preponderance of the evidence, that the owner's failure to care for the animal or ability to maintain proper care for the animal was due to economic distress beyond the owners control.

(Res. No. 09-40, 4-23-09)

**9.04.030 Administration and enforcement.**

Administration and enforcement of this chapter shall be the responsibility of the Director of Planning and Community Development, and the Office of Housing.

A. The Office of Housing shall:

1. Operate or cause to be operated animal shelters and/or dog pounds as may be required.
2. If deemed necessary, select, train, hire and retain housing enforcement officers who will enforce the provisions of this chapter.
3. Make investigations of complaints pertaining to animal misconduct occurring in the area of jurisdiction and provide for administration, issuance, reissuance of licenses fees and other charges as provided herein.
4. Negotiate contracts or agreements with agencies or facilities within or outside the reservation to aid in the execution of his or her responsibilities.

(Res. No. 09-40, 4-23-09)

**9.04.040 Delegation—Authority.**

In carrying out the responsibilities of this chapter the:

A. Director of Planning and Community Development may at his/her discretion:

1. Delegate all or part of his/her responsibilities to a competent agency or agencies.
2. Hire and appoint a housing enforcement officer responsible to the housing manager to enforce and investigate animal regulations.

B. Chief of police at his/her discretion:

1. May authorize a limited police commission in accordance with the Squaxin Island police policy, procedures and written directives, for the purpose of enforcing this chapter.
2. Is responsible for enforcing this chapter along with housing enforcement.

C. Housing enforcement officer shall:

1. Investigate and enforce the laws of this chapter.
2. Wear a designated uniform identified as housing enforcement.

D. Authorized agents may perform duties.

1. Whenever a power is granted to or a duty imposed upon the Squaxin Island Office of Housing, the power may be exercised or the duty may be performed by any animal control or law enforcement officer.

E. Authority to pursue.

1. Those authorized under Section 9.04.040(D) may pursue animals running at large onto tribal-owned property, vacant property, and unenclosed private property and seize, remove, and impound the same.

F. Probable cause to impound animal.

1. Any animal control or law enforcement officer having probable cause to believe that any person has violated any provision of this title by reason of his/her animal's misconduct may impound or cause to be impounded any such animal.
2. When a animal control or law enforcement officer has probable cause to believe a dog is a dangerous dog, he/she may impound the animal. Law enforcement or animal control officers may require that such dog be held in the shelter or a secure veterinary hospital

until a hearing is held to determine the animal's status or the deadline for requesting such a hearing has passed.

(Res. No. 09-40, 4-23-09)

#### **9.04.050 Animal control zone.**

Jurisdiction is extended over all persons or entities within the jurisdiction of the tribe, who own, sell, allow or have in their possession, animals as defined in this chapter within:

- A. The exterior boundaries of the Squaxin Tribal Reservation.
- B. Lands owned by, held in trust for, leased or used by the Squaxin Tribe, its members, and any other entity of the Tribe; or
- C. The Indian Country of the Squaxin Island Tribe, as that term may be defined from time to time by the laws of the United States.

(Res. No. 09-40, 4-23-09)

#### **9.04.060 Licensing of dogs.**

- A. It is a misdemeanor for any person to keep, maintain or harbor any adult dog without paying the license fee and obtaining the license required by this chapter. In addition any person who acquires an unlicensed or licensed dog, whose dog becomes an adult, or who moves onto the reservation with an unlicensed dog, shall have thirty (30) days from the date of any of those events occurring to obtain the license required. Provided, those animals in the custody of a veterinarian or animal shelter designated as the custodians if impounded, animals whose owners are unknown or those for sale in a pet store need not be licensed. In addition, occasional residents or visitors whose dog(s) are licensed in another city or county and whose dog displays a valid license, need not be licensed with the Squaxin Island Tribe.
- B. Any owner or member of a household who, within one year after a written surrender, obtains another animal shall be assessed an animal license fee of one hundred fifty dollars (\$150.00).
- C. Dog license fees are determined annually by the Squaxin Tribal Council.
- D. Annual license fees which have not been paid by the 30th of March are subject to an additional fee to be determined by Council, there shall be no additional fee where:
  - 1. The applicant has owned the dog for less than thirty (30) days.
  - 2. The dog is less than seven months of age at the time of application.
  - 3. The applicant has resided on the Squaxin Island Indian Reservation less than thirty (30) days
  - 4. The applicant voluntarily applies for a license and was not found to be in violation of this chapter.
  - 5. Replacement of a lost or damaged license may be obtained at a cost to be determined by Council.
- E. Exemptions from License Fees. The following are exempt from license fees:
  - 1. Dogs actively and regularly engaged in the work of a law enforcement agency.
  - 2. Dogs actively and regularly engaged in assisting the visually or hearing impaired.
  - 3. The Director of Planning and Community Development authorized the waiving of fees under Section 9.04.180(E).
- F. Elders Dog Licenses. Persons, who have reached the age of fifty-five (55) may, by paying regular annual fees, obtain a permanent dog license which will be valid for the lifetime of the animal;

provided the animal lives permanently with license applicant. Any individual having a permanent dog license shall place the Office of Housing on notice upon the death or disposition of the licensed animal.

- G. No person or persons residing in the same household may obtain more than three licenses pursuant to this section. Any owner who had four dogs licensed as of April 23, 2009, may continue to maintain those four dogs until one or more no longer reside on the property, after which the limit of three dogs will apply.

(Res. No. 09-40, 4-23-09)

#### **9.04.070 Dog license procedure.**

- A. Issuance of License. The Office of Housing and/or any agents authorized by the Tribal Council will issue licenses pursuant to Section 9.04.060 of this chapter.
- B. Contents of License Receipt. The receipt shall contain the following:
1. Date of issuance;
  2. A serial number;
  3. Name of dog, its age, color, sex, and whether the animal is spayed or neutered;
  4. The name, address, and phone number of the owner or keeper of the dog.
- C. License Tag. With each license issued, the owner or keeper shall receive a license tag which will contain the serial number corresponding to the serial number on the license.
- D. Permanent Licenses. Permanent licenses issued pursuant to this chapter shall contain no expiration date. The license tag will be permanently worn by the licensed dog on a substantial collar, but tags need not be worn by dogs engaged in hunts, in a sanctioned dog show or in formal obedience training.
- E. Transferability. Licenses are not transferable from one animal to another but may be transferred from an original owner to a new owner; but in no event are licenses issued pursuant to Sections 9.04.060(c) and (d) transferable.

(Res. No. 09-40, 4-23-09)

#### **9.04.080 Impounding, surrendering, redemption and disposition of animals, livestock, and poultry.**

- A. Surrendering Animals. Animals may be surrendered upon a written notice to the Office of Housing for the following reasons:
1. Due to economic or physical distress.
  2. Terminally ill animals, elderly animals with pain, or diseased animals.
  3. A situation beyond the owners control with approval of the housing manager.
  4. Fees may be assessed for the disposal of surrendered animals.
- B. Impounding Animals. Animals may be impounded in the following situations:
1. When the animal is off the premises of its owner or keeper.
  2. If the animal is an adult dog and it has no license tag.
  3. If the animal is an adult dog, if it has an expired license and the date is July 1st.
  4. When the animal has been subjected to cruel treatment.

5. If the animal is a dangerous dog.
  6. If the animal has bitten or attacked either humans or domestic animals.
  7. After notice is given to remove livestock or poultry from the reservation.
- C. Place and Manner of Impoundment. Animals, livestock and poultry shall be impounded in a place and manner designated by the Squaxin Island Director of Planning and Community Development or his assigned designee.
- D. Notice to Owner. Within twenty-four (24) hours of impoundment, the Director of Planning and Community Development or his or her authorized agent will provide written notice to the owner or keeper of the animals, livestock, and/or poultry of its impoundment. If the owner or keeper of the animal, livestock or poultry is unknown, reasonable efforts to notify the owner or keeper of the impoundment will be made.
- E. Redemption of Animals.
1. An animal other than livestock, poultry and a dangerous dog may be redeemed upon payment of the scheduled fees assigned by the agent responsible for housing and caring for impounded animal. Quarantined animals, see Section 9.04.090
  2. Livestock and poultry may be redeemed upon payment of an impound fee and boarding fee, and if impounding requires special transportation, a fee will be assessed for such special transportation.
- F. Disposition of impounded animals not redeemed:
1. When an animal other than livestock or poultry is not redeemed, sooner than two days following written notice being given to its owner, the Director of Planning and Community Development or his authorized agent may give or sell the animal to a qualified person or organization, for the purpose of adoption, euthanize or otherwise dispose of the animal.
  2. When livestock and poultry are not redeemed, sooner than seven days following written notice being given its owner, the Director of Planning and Community Development or his authorized agent may commence to sell the animal at public auction. Notice of the auction and a description of the livestock to be auctioned shall be published at least five days prior to the sale in the official county or tribal newspaper. Such notice shall also be mailed to the owner of the livestock if known. Cost of publication and the costs described in subsection (D)(2) of this section shall be deducted from the proceeds of the sale. The balance shall be remitted to the owner, if known. Otherwise it shall be deposited with the Squaxin Island Tribal general account.
- G. Disposition of Sick or Injured Animals. Sick or injured animals may be euthanized or otherwise disposed of at any time in furtherance of the public health and safety, or necessary to prevent unnecessary suffering. When reasonably possible, the owner or keeper shall be notified prior to any such disposition.

(Res. No. 09-40, 4-23-09)

#### **9.04.090 Quarantine.**

Animals will be quarantined pursuant to public health regulations.

- A. Animals will be quarantined pursuant to public health regulations, provided however that a dangerous dog or a dog that has bitten someone severely enough to break the skin will be picked up by the animal control authority, and impounded at the authorities facility for a period of not less than ten (10) days.
- B. After the ten (10) day period of impoundment the owner or keeper of the animal other than a dangerous dog or a dog that has bitten someone severely enough to break the skin, may redeem it at a cost of fifty dollars (\$50.00) and any other fines or license fees applicable.

- C. After the ten (10) day period of quarantine and/or a finding from the Tribal Court, a dangerous dog or a dog that has bitten someone severely enough to break the skin, may be destroyed and disposed of by a licensed veterinary clinic, hospital or facility under contract with the Squaxin Island Tribe, through the authority of an animal control officer.

(Res. No. 09-40, 4-23-09)

#### **9.04.100 Crimes.**

The following are declared to be misdemeanors:

- A. Removing License. For a person other than the owner, keeper or other authorized person to remove the license tag from the animal required to be licensed pursuant to this chapter.
- B. Failure to Respond. Failure to respond to a notice of infraction issued pursuant to Section 9.04.130.
- C. Selling Diseased Animal. For an owner or keeper to sell an animal knowing it is diseased.
- D. Interfering with Impounding. For a person to prevent, obstruct or hinder the impoundment of an animal pursuant to Section 9.04.080.
- E. Violation of an abatement order.
- F. Harboring a Dangerous Dog. To own, harbor or maintain a dangerous dog.
- G. Failure to maintain potentially dangerous dog.
- H. Cruelty to Animals. As defined in Section 9.04.020.
- I. Allowing dangerous or potentially dangerous animals at large.
- J. Domestic animals taking, concealing, injuring, killing, etc. As defined in Section 9.12.800.

(Res. No. 09-40, 4-23-09)

#### **9.04.110 Penalties.**

Any person, firm or corporation violating any provision of Section 9.04.100 shall be guilty of a misdemeanor, and each such person, firm or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of Section 9.04.100 is committed, continued or permitted. Upon conviction of any violation, such person, firm or corporation shall be punished by a fine of not more than two hundred fifty dollars (\$250.00) or by imprisonment for not more than thirty (30) days or by both such fine and imprisonment for each separate offense.

(Res. No. 09-40, 4-23-09)

#### **9.04.120 Declaration and forfeiture of potentially dangerous or dangerous dog.**

- A. The Tribal animal control officer shall classify potentially dangerous dogs and dangerous dogs. The animal control officer may find and declare a dog dangerous if he/she has probable cause to believe that the dog falls within the definitions set forth in Section 9.04.020. An animal control officer may find and declare a dog potentially dangerous if he/she has probable cause to believe that the dog falls within the definition set forth in Section 9.04.020. The finding must be based upon:
  - 1. The written complaint of a citizen;
  - 2. Any dog bite report filed with the shelter or Tribe; or actions of the dog witnessed by any animal control officer or law enforcement officer; or
  - 3. Other substantial evidence.



- B. The declaration of dangerous dog or potentially dangerous dog shall be in writing and shall be served on the owner in one of the following methods:
  - 1. Certified and regular mail to the owner's last known address; or
  - 2. Personally served.
- C. The declaration shall state at least:
  - 1. A description of the dog;
  - 2. The name and address of the owner of the dog, if known;
  - 3. The whereabouts of the dog, if it is not in the custody of the owner;
  - 4. A summary of the facts upon which the declaration of dangerous or potentially dangerous dog is based, including the definition of dangerous or potentially dangerous under which the declaration is being made;
  - 5. The availability of a hearing in case the person objects to the declaration, if a written request for a hearing is made by the owner within ten (10) days date of being served notice of the declaration;
  - 6. A summary of the restrictions place on the dog as a result of the declaration; and
  - 7. A summary of the potential penalties for violation of the restrictions, including the possibility of destruction of the animal and imprisonment or fining of the owner.
- D. Confinement and disposition of dangerous and potentially dangerous dogs.
  - 1. When a dog is declared a dangerous dog, the dog shall be impounded.
  - 2. When a dog is declared a potentially dangerous dog, the dog may be impounded.
  - 3. From the date of initial declaration of potentially dangerous by the Tribal animal control officer, the dog owner shall comply with all requirements imposed by the Director of Planning and Community Development or his or her designee.
  - 4. A dangerous dog shall be euthanized: (1) any time after the expiration of the ten (10) day grace period given the owner under Section 9.04.120(C)(5), in the event the owner fails to appeal the dangerous dog designation; or (2) upon entry of an order from Tribal Court, in the event the owner appeals the dangerous dog designation pursuant to Section 9.04.120(C)(5).
- E. The owner or keeper of an animal found in a judicial proceeding to be a dangerous dog shall forfeit the right to own or possess such an animal. Such a judicial proceeding may be commenced by filing in the Squaxin Island Tribal Court a notice of proceeding to forfeit the animal. Such a notice shall be served upon the owner or keeper of the animal. Thereafter, the matter shall proceed to trial as for the trial in criminal cases. A forfeited animal shall be rendered to the proper authority for disposition. The trial regarding forfeiture may proceed in conjunction with a trial for violation of Section 9.04.100(C).

(Res. No. 09-40, 4-23-09)

#### **9.04.130 Infractions.**

The following are declared to be infractions:

- A. Dog in Heat. For the owner or keeper of a dog in heat to keep such a dog in a fashion where it is accessible to male dogs unless such accessibility is for the purpose of planned breeding.
- B. Barking and Howling. For the owner or keeper to own, harbor or maintain an animal which unreasonably annoys or disturbs others through frequent or habitual barking, howling, yelping or crying.

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- C. Damaging Property. For the owner or keeper of an animal to permit the animal to leave the premises of the owner or keeper and thereafter cause damage to any thing of value or a domestic animal.
- D. Disturbing Pedestrians. For the owner or keeper to own, harbor or maintain an animal which disturbs people lawfully on public ways or snarling, growling or jumping at or toward such people.
- E. Chasing Vehicles. For the owner or keeper to own, harbor or maintain an animal which chases or runs at or after vehicles lawfully on public ways.
- F. Reporting and Releasing Stray Animals. For any person to fail to notify proper authority (Office of Housing or Law Enforcement) that a stray animal is in his or her possession or to refuse to release a stray animal to the tribal police chief or his or her authorized agent upon demand.
- G. Releasing Animal. For any person except the owner, keeper or other authorized person to release any animal from confinement.
- H. Excess Number of Adult Dogs. To own, keep or maintain three or more adult dogs at the same place.
- I. No Valid Dog License. To own, keep or maintain a dog without a license as require by Section 9.04.060.
- J. Agitating an Animal. To intentionally agitate, molest or provoke an animal confined on the premises of its owner or keeper.
- K. Running in Packs. For the owner or keeper of any dog to allow such dog to leave the premises of such owner or keeper and thereafter run from place to place with other dogs.
- L. Getting into garbage other than its owner's or keeper's.
- M. Owning or allowing livestock and poultry on the Squaxin Island Tribal Reservation.
- N. Dogs at Large Prohibited—Exceptions. It is unlawful for any person to cause, permit or allow any dog owned, harbored, controlled or kept by him, to roam, run or stray away from the premises where the same is owned, harbored, controlled or kept. Except that while away from said premises, such dog shall, at all times, be controlled by means of a leash or chain not exceeding eight feet in length, by the owner or some duly authorized and competent person; provided, however, that such leash or chain is not required for any dog when otherwise safely and securely confined or completely controlled while in or upon any vehicle.

Upon the animal control officers authority to determining that a violation of subsections A, B, C, D, E, H, I, K, or M of this section has occurred, on the first such determination, a verbal or written warning shall be given the responsible party upon a second or subsequent such violation a citation may be issued.

(Res. No. 09-40, 4-23-09)

### **9.04.140 Infraction penalties.**

The penalty for any infraction specified in Section 9.04.130 after the required warning mentioned in that section shall be fifty dollars (\$50.00) for the first cited violation, seventy-five dollars (\$75.00) for the second cited violation committed within one year from date of the offense, and one hundred dollars (\$100.00) for the third and subsequent cited violation committed within one year, from date of offense. Each and every day or portion thereof in which an infraction is committed shall constitute a separate and distinct infraction.

(Res. No. 09-40, 4-23-09)

**9.04.150 Infraction procedure.**

Infractions under this chapter shall, insofar as possible, be charged and processed pursuant to tribal court infraction rules as now or hereafter amended.

(Res. No. 09-40, 4-23-09)

**9.04.160 Enforcement by civil action.**

Any action or inaction by any animal or the owner or keeper thereof which is contrary to the provisions of this chapter, shall be and the same are declared to be unlawful and a public nuisance. Compliance with this chapter may be enforced by an action for abatement or injunction by an affected citizen or by the prosecuting attorney.

(Res. No. 09-40, 4-23-09)

**9.04.170 Construction.**

This chapter shall be liberally interpreted and construed to secure the public health, safety, morals and welfare and the rules of strict construction shall have no application.

(Res. No. 09-40, 4-23-09)

**9.04.180 Budgeting, planning and separation accounting of moneys.**

- A. Budgeting. The Director of Planning and Community Development or his or her authorized designee will prepare an annual budget for animal control, which will be submitted to the Tribal Council during the normal budgeting process. Included with the annual budget will be a recommendation for an increase/decrease in the dog license fee cost for the next annual licensing of dogs.
- B. Planning. Submitted as part of the animal control budget will be a plan for the next fiscal year of operations which will include expected staffing, envisioned level of operations, construction or building improvements, contracts and agreements, maintenance of physical properties and other relevant features to support the budget.
- C. Separation and Accounting of Moneys. The animal control financing and budgeting will be entirely separate from the tribal law enforcement and housing maintenance budgets.
- D. Collection of Moneys/Fees. All moneys collected for license fees and civil penalties connected with this chapter will be kept track of by the tribal accounting department who will make the total annual amount known to the Tribal Council when so requested. Said Council may at its discretion take into account this amount when considering the annual animal control budget.
- E. Waiving of Fees. The Director of Planning and Community Development or his/her designee is authorized to: (1) Waive any animal licensing fees; and (2) waive fees regarding the surrender of animals up to and including euthanasia and cremation fees. The waiving of fees will be for the purpose of "special circumstances" only, as defined in Section 9.04.020.

(Res. No. 09-40, 4-23-09)

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FOOTNOTE(S):

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**Editor's note**— Res. No. 09-40, adopted April 23, 2009, repealed the former Chapter 9.04, §§ 9.04.010—9.04.180, and enacted a new Chapter 9.04 as set out herein. The former Chapter 9.04 pertained to similar subject matter and derived from Res. No. 89-25 and Res. No 07-31. ([Back](#))

## **Chapter 9.08 VEHICLE CODE\***

\* Editor's note: The tribal vehicle code was adopted by Resolution 82-04 and amended by Resolutions 82-13, 82-26, 86-30, 86-38 and 93-32. A copy is available in the law and order office for public inspection.

## **Chapter 9.10 CIVIL TRESPASS**

### **Sections:**

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### **9.10.010 Purpose.**

This chapter provides a means for the Tribe to protect its property and the property of those living in Indian Country from theft, vandalism and other harm and to protect the Tribe, its members, and other persons living in Indian Country from people whose presence in Indian Country is harmful to, or threatens harm to the peace, health, safety, environment, morals and general welfare of the Tribe and all residents of Indian Country.

The Tribal Council has determined that acts of third parties that interfere with the property rights and/or welfare of the Tribe, Tribal members, residents and guests threaten the peace, health, safety, environment, politics integrity and economic security of the Tribe. It is the intent of the Tribal Council to make such acts a civil violation with the desire to protect such property rights.

(Res. No. 13-92, 12-12-13)

### **9.10.020 Definitions.**

As used in this resolution, the following words or phrases shall have the following definitions:

"Indian country" consistent with the meaning given in 18 U.S.C. 1151 means:

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1. All land within the limits of the Squaxin Island Indian Reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; including all commercial properties of the Tribe.
2. All Indian allotments or other lands held in trust for a Squaxin Island Tribal member or the Tribe, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

"Tribal Council" means the Tribal Council of the Squaxin Island Tribe as defined pursuant to the Constitution and Bylaws of the Tribe.

"Tribe" or "Tribal" shall mean or refer to the Squaxin Island Tribe.

"Tribal Court" means the Squaxin Island Tribal Court, including its civil, criminal and employment divisions and the Squaxin Island Tribal appellate court.

"Tribal Police" or "Squaxin Island Tribal Police" shall mean the Squaxin Island Tribal Police, and officers of any other jurisdiction duly deputized to serve the Squaxin Island Tribal Police Department.

"Landowner" shall mean any person or entity who owns land in fee or whose land is held in trust by the United States and shall include the Squaxin Island Tribe, and any and all of its enterprises, commercial or otherwise.

"Property" shall mean any and all real and personal property, as well as governmental, commercial, or residential dwellings.

"Law enforcement" means the department of the Tribe charged with the enforcement of the laws of the Tribe.

"Violation" means an act which is proscribed by this Act which bears a civil penalty.

(Res. No. 13-92, 12-12-13)

### **9.10.030 Effective date.**

The resolution from which this chapter is derived shall apply to all trespasses as herein defined occurring on or after its date of adoption.

(Res. No. 13-92, 12-12-13)

### **9.10.040 Civil violation of trespass.**

The Tribe hereby establishes the civil violation of trespass to be prosecuted as a civil violation in accordance with Squaxin Island Tribal Code Chapter 9.10. The Tribal Council declares that persons committing the civil violation of trespass threaten the peace, health, safety, environment, political integrity and economic security of the Tribe.

(Res. No. 13-92, 12-12-13)

### **9.10.050 Civil trespass defined.**

A person commits the civil violation of trespass if the person enters or otherwise occupies land of another within Indian Country and without consent or permission of the landowner, commits any of the following acts, unless otherwise authorized under applicable law:

- A. Refuses to leave land to which the person has no reasonable claim or right of possession when requested to do so;
- B. Enters upon such land with knowledge, actual or constructive, that permission by the landowner for such person to enter such land does not exist, or has been expressly denied or revoked;

- C. Violates any restraining order, including a domestic restraining order issued or recognized by the Squaxin Island Tribal Court;
- D. Opens, damages, renders inoperable, or destroys a fence, or gate on enclosed land of another;
- E. Destroys or injures land, waters, livestock, poultry, buildings, equipment, or any property or another;
- F. Unlawfully parks or drives any vehicle on the land of another;
- G. Cuts down, destroys, or injures any wood, timber, plant, vegetation, or crop standing on the land of another, or carries away any wood, timber, plant, vegetation or crop of another;
- H. Erects, puts up, fastens, prints, or paints upon another's property, notices, advertisements, signs or other writing designed to communicate to the general public;
- I. Dumps, deposits, places, throws, burns, emits or leaves rubbish, refuse, debris, substances, or other objects upon a highway, road, air, waters or any land; or
- J. Enters upon lands owned by or leased from the Tribe in violation of regulations governing access to such lands.

(Res. No. 13-92, 12-12-13)

#### **9.10.060 Acts not constituting civil violation of trespass.**

Compliance with a properly issued Squaxin Island Tribal Court subpoena, summons or order to show cause shall not constitute civil trespass.

(Res. No. 13-92, 12-12-13)

#### **9.10.070 Administration and enforcement.**

Delegation—Authority. Administration and enforcement of this chapter shall be the responsibility of the Director of the Squaxin Island Tribal Police. In carrying out the responsibilities of this chapter the Director of Law Enforcement may at his/her discretion delegate all or part of his/her responsibilities to a competent Tribal entity, including but not limited to Island Enterprises, Inc. Security Department and Squaxin Island Gaming Enterprise d/b/a Little Creek Casino Resort Security Department.

(Res. No. 13-92, 12-12-13)

#### **9.10.080 Civil penalties.**

Commission of any act specified in Section 9.10.050 shall constitute a civil infraction. The civil penalty for any such infraction shall be: fifty dollars (\$50.00) for the first cited violation, seventy-five dollars (\$75.00) for the second cited violation committed within one year from date of the offense, and one hundred dollars (\$100.00) for the third and subsequent cited violation committed within one year, from date of offense. Each and every day or portion thereof in which an infraction is committed shall constitute a separate and distinct infraction.

(Res. No. 13-92, 12-12-13)

#### **9.10.090 Infraction procedure.**

Infractions under this chapter shall, insofar as possible, be charged and processed pursuant to Tribal Court infraction rules as now or hereafter amended.

(Res. No. 13-92, 12-12-13)

**9.10.100 Jurisdiction.**

The provisions of this code, in conformance with applicable federal laws, shall extend to all person entering or remaining in Indian Country.

(Res. No. 13-92, 12-12-13)

**Chapter 9.12 LAW AND ORDER CODE**

**Sections:**

[9.12.1460 Required and prohibited information.](#)

**9.12.1460 Required and prohibited information.**

Article I. - Application—Jurisdiction

Article II. - Liability

Article III. - Defenses

Article IV. - Anticipatory Offenses

Article V. - Homicide

Article VI. - Physical Harm

Article VII. - Kidnapping, Unlawful Imprisonment, and Custodial Interference

Article VIII. - Arson, Reckless Burning, Malicious Mischief and Damage to Property

Article IX. - Burglary and Trespass

Article X. - Theft and Robbery

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Article XVIII. - Rape—Public Indecency—Prostitution—Sex Crimes

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## **Article I. Application—Jurisdiction**

[9.12.005 Title.](#)

[9.12.010 Application.](#)

[9.12.015 Severability.](#)

[9.12.020 Jurisdiction.](#)

[9.12.025 Definitions.](#)

[9.12.030 Proof beyond a reasonable doubt.](#)

[9.12.035 Procedure.](#)

### **9.12.005 Title.**

This code shall be known as the Squaxin Island Tribal law and order code.

(Res. 02-129 (part))

### **9.12.010 Application.**

The provisions of this code shall apply to any offense committed after the passage of a resolution by the Squaxin Island Tribal Council authorizing its enactment.

(Res. 02-129 (part))

### **9.12.015 Severability.**

If any provision of this code, or its application to any person or circumstance, is held invalid or unconstitutional, the remainder of this code, or the application of the provision to other persons or circumstances, shall not be affected.

(Res. 02-129 (part))

### **9.12.020 Jurisdiction.**

The provisions of this code, in conformance with applicable federal laws, shall extend to:

- A. All enrolled members of federally recognized Indian Tribes within Indian country.
- B. All members of the Squaxin Island Tribe and those eligible for tribal membership within the following areas:
  - 1. Within areas as defined in subsection A of this section;
  - 2. Within all usual and accustomed treaty fishing grounds and stations of the Tribe;
  - 3. Within the exterior boundary of the lands ceded by the Treaty of Medicine Creek; and/or

4. Within all open and unclaimed treaty hunting lands.
- C. All other persons within Indian country; provided, that such persons shall be subject only to civil penalty for violation of any provisions of this chapter.

(Res. 07-31 § 35: Res. 02-129 (part))

### 9.12.025 Definitions.

In this code, unless a different meaning is plainly required or otherwise specified:

"Acted" includes, where relevant, omitted to act.

"Actor" includes, where relevant, a person failing to act.

"Benefit" is gain or advantage to the beneficiary, including any gain or advantage to a third person pursuant to the desire or consent of the beneficiary.

"Bodily injury" or "physical injury" means physical pain, illness, or an impairment of physical condition.

"Building," in addition to its ordinary meaning, includes any dwelling, fenced area, vehicle, railway car, cargo container, or any other structure used for lodging of persons or for carrying on business therein, or for the use, sale or deposit of goods; each unit of a building consisting of two or more units separately secured or occupied is a separate building.

"Council" or "Tribal Council" means the Squaxin Island Tribal Council.

"Court" or "Tribal Court" means the Squaxin Island Tribal Court, including the Court of Appeals.

"Deadly weapon" means any explosive or loaded or unloaded firearm, and shall include any other weapon, device, instrument, article, or substance, including a vehicle as defined in this section, which, under the circumstances in which it was used, attempted to be used, or threatened to be used, is readily capable of causing death or serious bodily injury.

"Dwelling" means any building or structure, though movable or temporary, or a portion thereof, which is used or ordinarily used by a person for lodging.

"Government" includes any branch, subdivision, or agency of the Squaxin Island Tribal Government, or the United States Government.

"Government function" includes an activity that a public servant is legally authorized or permitted to undertake on behalf of a government.

"Includes" or "including" means includes but is not limited to.

"Indian country," consistent with the meaning given in 18 U.S.C. 1151 means:

1. All land within the limits of the Squaxin Island Indian Reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; and
2. All Indian allotments or other lands held in trust for a Squaxin Island Tribal member or the Tribe, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

"Indicted" and "indictment" include "informed against" and "information," and "informed against" and "information" include "indicted" and "indictment".

"Judge" includes every judicial officer or court officer authorized alone, or with others, to hold or preside over a court.

"Malice" and "maliciously" shall import an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be inferred from an act done in willful disregard of the rights of another, or an act

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wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

"Officer" and "public officer" means a person holding office under tribal government, or in the federal government who performs a public function and in so doing is vested with the exercise of some sovereign power of government, and includes all assistants, deputies, clerks and employees of any public officer and all persons lawfully exercising or assuming to exercise any of the powers or functions of a public officer.

"Omission" means a failure to act.

"Peace officer" means a duly appointed or authorized, tribal or federal law enforcement officer.

"Pecuniary benefit" means any gain or advantage in the form of money, property, commercial interest, or anything else the primary significance of which is economic gain.

"Person," "he," "she" or "actor" include any natural person and, where relevant, a corporation, association, partnership, and other similar entities.

"Place of work" includes but is not limited to all the lands and other real property of a farm or ranch in the case of an actor who owns, operates, or is employed to work on such a farm or ranch.

"Prison" means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including but not limited to any federal, state, or tribal correctional institution or juvenile detention center, or any county, city, or tribal jail or juvenile detention center.

"Prisoner" includes any person held in custody under process of law, or under lawful arrest.

"Property" means anything of value, whether tangible or intangible, real or personal.

"Public servant" means any person other than a witness who presently occupies the position of or has been elected, appointed, or designated to become an officer or employee of government, including a legislator, judge, judicial officer, juror, and any person participating as an advisor, consultant, or otherwise in performing a governmental function.

"Signature" includes any memorandum, mark, or sign made with intent to authenticate any instrument or writing, or the subscription of any person thereto.

"Statute" means the Tribal Constitution or an act of the Tribal Council or General Council.

"Threat" means to communicate, directly or indirectly, the intent:

1. To cause bodily injury in the future to the person threatened or to any other person; or
2. To cause physical damage to the property of a person other than the actor; or
3. To subject the person threatened or any other person to physical confinement or restraint; or
4. To accuse any person of a crime or cause criminal charges to be instituted against any person; or
5. To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or
6. To reveal any information sought to be concealed by the person threatened; or
7. To testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
8. To take wrongful action as an official against anyone or anything, or wrongfully withhold official action, or cause such action or withholding; or
9. To bring about or continue to strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or

10. To do any other act which is intended to harm substantially the person threatened or another with respect to his or her health, safety, business, financial condition, or personal relationships.

"Tribe" means the Squaxin Island Tribe.

"Vehicle" means a "motor vehicle" as defined in the vehicle and traffic laws, any aircraft, or any vessel equipped for propulsion by mechanical means or by sail.

Words in the present tense shall include the future tense; and in the masculine shall include the feminine and neuter genders; and in the singular shall include the plural; and in the plural shall include the singular.

(Res. 07-31 § 36; Res. 02-129 (part))

#### **9.12.030 Proof beyond a reasonable doubt.**

- A. Every person charged with the commission of a crime is presumed innocent unless proven guilty. No person may be convicted of a crime unless each element of such crime is proved by competent evidence beyond a reasonable doubt.
- B. When a crime has been proven against a person, and there exists a reasonable doubt as to which of two or more degrees he or she is guilty, he or she shall be convicted only of the lowest degree.

(Res. 02-129 (part))

#### **9.12.035 Procedure.**

All procedures necessary to implement this Ordinance shall be as set forth in Title 4 of the Squaxin Island Tribal Code.

(Res. 02-129 (part))

### **Article II. Liability**

[9.12.040 Culpability—Who is guilty.](#)

[9.12.045 Complicity—Who is guilty for the actions of another.](#)

#### **9.12.040 Culpability—Who is guilty.**

- A. Kinds of Culpability Defined.
  1. Intent. A person acts with intent or intentionally when he or she acts with the objective or purpose to accomplish a result that constitutes a crime.
  2. Knowledge. A person knows or acts knowingly or with knowledge when:
    - a. He or she is aware of a fact, facts, or circumstances or result described by a statute defining an offense; or
    - b. He or she has information which would lead a reasonable person in the same situation to believe that facts exist which are described by a statute defining an offense.
  3. Recklessness. A person is reckless or acts recklessly when he or she knows of and disregards a substantial risk that a wrongful act may occur and his or her disregard of such substantial risk is a gross deviation from conduct that a reasonable person would exercise in the same situation.

4. Criminal negligence. A person is criminally negligent or acts with criminal negligence when he or she fails to be aware of a substantial risk that a wrongful act may occur and his or her failure to be aware of such substantial risk constitutes a gross deviation from the standard of care that a reasonable person would exercise in the same situation.
- B. Substitutes for Criminal Negligence, Recklessness, and Knowledge. When a statute provides that criminal negligence suffices to establish an element of an offense, such element is also established if a person acts intentionally, knowingly, or recklessly. When recklessness suffices to establish an element of an offense, such element is also established if a person acts intentionally or knowingly. When acting knowingly suffices to establish an element of an offense, such element also is established if a person acts intentionally.
- C. Culpability as Determinant of Grade of Offense. When the grade or degree of an offense depends on whether the offense is committed intentionally, knowingly, recklessly, or with criminal negligence, its grade or degree shall be the lowest for which the determinative kind of culpability is established with respect to any material element of the offense.
- D. Requirement of Willfulness Satisfied by Acting Knowingly. A requirement that an offense be committed willfully is satisfied if a person acts knowingly with respect to the material elements of the offense, unless a purpose to impose further requirements plainly appears.

(Res. 02-129 (part))

#### **9.12.045 Complicity—Who is guilty for the actions of another.**

- A. A person is guilty of a crime if it is committed by the conduct of another person for which he or she is legally accountable.
- B. A person is legally accountable for the conduct of another person when:
  1. Acting with the kind of culpability that is sufficient for the commission of the crime, he or she causes an innocent or irresponsible person to engage in such conduct; or
  2. He or she is made accountable for the conduct of such other person by this chapter or by the law defining the crime; or
  3. He or she is an accomplice of such other person in the commission of the crime.
- C. A person is an accomplice of another person in the commission of a crime if:
  1. With knowledge that it will promote or facilitate the commission of the crime, he or she:
    - a. Solicits, commands, encourages, or requests such other person to commit it; or
    - b. Aids or agrees to aid such other person in planning or committing it; or
    - c. His or her conduct is expressly declared by law to establish his or her complicity.
- D. A person who is legally incapable of committing a particular crime himself may be guilty thereof if it is committed by the conduct of another person for which he or she is legally accountable, unless such liability is inconsistent with the purpose of the provision establishing his or her incapacity.
- E. Unless otherwise provided by this title or by the law defining the crime, a person is not an accomplice in a crime committed by another person if:
  1. He or she is a victim of that crime; or
  2. He or she terminates his or her complicity prior to the commission of the crime, and either gives timely warning to the law enforcement authorities or otherwise makes a good faith effort to prevent the commission of the crime.
- F. A person legally accountable for the conduct of another person may be convicted on proof of the commission of the crime and of his or her complicity therein, though the person claimed to have

committed the crime has not been prosecuted or convicted or has been convicted of a different crime or degree of crime or has an immunity to prosecution or conviction or has been acquitted.

(Res. 02-129 (part))

### **Article III. Defenses**

#### **9.12.050 Insanity.**

#### **9.12.055 Defenses.**

#### **9.12.050 Insanity.**

To establish the defense of insanity, it must be shown that:

- A. At the time of the commission of the offense, as a result of mental disease or defect, the mind of the actor was affected to such an extent that:
  - 1. He or she was unable to perceive the nature and quality of the act with which he or she is charged; or
  - 2. He or she was unable to tell right from wrong with reference to the particular act charged.
- B. The defense of insanity must be established by a preponderance of the evidence.

(Res. 02-129 (part))

#### **9.12.055 Defenses.**

- A. "Necessary" Defined. "Necessary" means that no reasonable alternative to the use of force appeared to exist and that the amount of force used was reasonable to effect the lawful purpose intended.
- B. Use of Force—When Lawful. The use of, attempt to, or offer to use force upon or toward the person of another shall not be unlawful in the following cases:
  - 1. Whenever necessarily used by a public officer in the performance of a legal duty; or
  - 2. Whenever necessarily used by a person arresting one who has committed a felony and delivering him or her to a public officer competent to receive him or her into custody; or
  - 3. Whenever used by a party about to be injured, or by another lawfully aiding him or her, in preventing or attempting to prevent an offense against his or her person, or a malicious trespass, or other malicious interference with real or personal property lawfully in his or her possession, and the force is not more than shall be necessary; or
  - 4. Whenever used in a reasonable and moderate manner by a parent or his or her authorized agent, a guardian, master, or teacher in the exercise of lawful authority, to restrain or correct his or her child, ward, apprentice, or scholar; or
  - 5. Whenever used by a carrier of passengers or his or her authorized agent or servant, or other person assisting them at their request in expelling from a carriage, railway car, vessel, or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force used is not more than shall be necessary to expel the offender with reasonable regard to his or her personal safety; or
  - 6. Whenever used by any person to prevent a mentally ill, mentally incompetent or mentally disabled person from committing an act dangerous to himself or another, or in enforcing

necessary restraint for the protection of his or her person, or his or her restoration to health, during such period only as shall be necessary to obtain legal authority for the restraint or custody of his or her person.

- C. Homicide—When Excusable. Homicide is excusable when committed by accident or misfortune in doing any lawful act by lawful means, with ordinary caution and without any unlawful intent.
- D. Justifiable Homicide by Public Officer. Homicide is justifiable when committed by a public officer, or person acting under his or her command and in his or her aid, in the following cases:
  - 1. In obedience to the judgment of a competent court; or
  - 2. When there is reasonable cause to believe that it is necessary to prevent serious bodily injury or death to himself or herself or to another.
- E. Homicide by Other Person—When Justifiable. Homicide is also justifiable when committed either:
  - 1. In the lawful defense of the slayer, or his or her husband, wife, parent, child, brother, or sister, or of any other person in his or her presence or company, when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony or to do some great personal injury to the slayer or to any such person, and there is imminent danger of such design being accomplished; or
  - 2. In the actual resistance of an attempt to commit a felony upon the slayer, in his or her presence, or upon or in a dwelling, or other place of abode, in which he or she is present.
- F. Duress.
  - 1. In any prosecution for a crime, it is a defense that:
    - a. The actor participated in the crime under compulsion by another who by threat or use of force created an apprehension in the mind of the actor that in case of refusal he or she or another would be liable to immediate death or immediate grievous injury; and
    - b. Such apprehension was reasonable upon the part of the actor; and
    - c. The actor would not have participated in the crime except for the duress involved.
  - 2. The defense of duress is not available if the crime charged is murder or manslaughter.
  - 3. The defense of duress is not available if the actor intentionally or recklessly places himself or herself in a situation in which it is probable that he or she will be subject to duress.
  - 4. The defense of duress is not established solely by a showing that a married person acted on the command of his or her spouse.
- G. Intoxication. No act committed by a person while in a state of voluntary intoxication shall be deemed less criminal by reason of his or her condition, but whenever mental state is relevant to the actual existence of any particular species or degree of crime, the fact of his or her intoxication may be taken into consideration in determining such mental state.

(Res. 02-129 (part))

#### **Article IV. Anticipatory Offenses**

[9.12.060 Criminal attempt.](#)

[9.12.065 Criminal solicitation.](#)

[9.12.070 Criminal conspiracy.](#)

**9.12.060 Criminal attempt.**

- A. A person is guilty of an attempt to commit a crime if, with intent to commit a specific crime, he or she does any act which is a substantial step toward the commission of that crime.
- B. If the conduct in which the person engages otherwise constitutes an attempt to commit a crime, it is no defense to a prosecution of such attempt that the crime charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission.
- C. An attempt to commit a crime: is a felony if the crime attempted is a felony; is a gross misdemeanor if the crime attempted is a gross misdemeanor; and is a misdemeanor, if the crime attempted is a misdemeanor.

(Res. 02-129 (part))

**9.12.065 Criminal solicitation.**

- A. A person is guilty of a criminal solicitation when, with intent to promote or facilitate the commission of a crime, he or she offers to give or gives money or other things of value, including the promise to act or refrain from acting, to another to engage in specific conduct which would constitute such crime or which would establish complicity of such other person in its commission or attempted commission.
- B. Criminal solicitation shall be punished in the same manner as criminal attempt under Section 9.12.060(C).

(Res. 02-129 (part))

**9.12.070 Criminal conspiracy.**

- A. A person is guilty of criminal conspiracy when, with intent that conduct constituting a crime be performed, he or she agrees with one or more persons to engage in or cause the performance of such conduct, and any one of them takes a substantial step in pursuance of such agreement.
- B. It shall not be a defense to criminal conspiracy that the person or persons with whom the accused is alleged to have conspired:
  - 1. Has not been prosecuted or convicted; or
  - 2. Has been convicted of a different offense; or
  - 3. Is not amenable to justice; or
  - 4. Has been acquitted; or
  - 5. Lacked the capacity to commit an offense.
- C. Criminal conspiracy is a felony if the object of the conspiracy is a felony, a gross misdemeanor if the object is a gross misdemeanor, and a misdemeanor if the object is a misdemeanor.

(Res. 02-129 (part))

**Article V. Homicide**

[9.12.075 Homicide defined.](#)

[9.12.080 Murder in the first degree.](#)

[9.12.085 Murder in the second degree.](#)

[9.12.090 Manslaughter in the first degree.](#)

[9.12.095 Manslaughter in the second degree.](#)

[9.12.100 Negligent homicide.](#)



[9.12.105 Homicide by abuse.](#)

**9.12.075 Homicide defined.**

Homicide is the killing of a human being by the act, procurement or omission of another and is either: (1) murder; (2) manslaughter; (3) excusable homicide; or (4) justifiable homicide.

(Res. 02-129 (part))

**9.12.080 Murder in the first degree.**

A. A person is guilty of murder in the first degree when:

1. With a premeditated intent to cause the death of another person, he or she causes the death of such person or of a third person; or
2. Under circumstances manifesting an extreme indifference to human life, he or she engages in conduct which creates a grave risk of death to any person, and thereby causes the death of a person; or
3. He or she commits or attempts to commit the crime of either: (1) robbery, in the first or second degree; (2) rape in the first or second degree; (3) burglary in the first degree; (4) arson in the first degree; or (5) kidnapping, in the first or second degree, and, in the course of and in furtherance of such crime or in immediate flight therefrom, he or she, or another participant, causes the death of a person other than one of the participants; except that in any prosecution under this subsection (A)(3) of this section in which the defendant was not the only participant in the underlying crime, if established by the defendant by a preponderance of the evidence, it is a defense that the defendant:
  - a. Did not commit the homicidal act or in any way solicit, request, command, importune, cause, or aid the commission thereof; and
  - b. Was not armed with a deadly weapon, or any instrument, article, or substance readily capable of causing death; and
  - c. Had no reasonable grounds to believe that any other participant was armed with such a weapon, instrument, article, or substance; and
  - d. Had no reasonable grounds to believe that any other participant intended to engage in conduct likely to result in death or physical injury.

B. Murder in the first degree is a felony.

(Res. 02-129 (part))

**9.12.085 Murder in the second degree.**

A. A person is guilty of murder in the second degree when:

1. With intent to cause the death of another person but without premeditation, he or she causes the death of such person or of a third person; or
2. He or she commits or attempts to commit any felony other than those enumerated in Section 9.12.080(A)(3), and in the course of and in furtherance of such crime or in immediate flight therefrom, he or she, or another participant, causes the death of a person other than one of the participants; except that in any prosecution under this subsection A of this section in which the

defendant was not the only participant in the underlying crime, if established by the defendant by a preponderance of the evidence, it is a defense that the defendant:

- a. Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission of the homicidal act; and
- b. Was not armed with a deadly weapon, or any instrument, article, or substance readily capable of causing death or serious physical injury; and
- c. Had no reasonable grounds to believe that any other participant was armed with such a weapon, instrument, article, or substance; and
- d. Had no reasonable grounds to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.

B. Murder in the second degree is a felony.

(Res. 02-129 (part))

#### **9.12.090 Manslaughter in the first degree.**

A. A person is guilty of manslaughter in the first degree when:

1. He or she recklessly causes the death of another person; or
2. He or she intentionally and unlawfully kills an unborn quick child by inflicting injury upon the mother of such child.

B. Manslaughter in the first degree is a felony.

(Res. 02-129 (part))

#### **9.12.095 Manslaughter in the second degree.**

A. A person is guilty of manslaughter in the second degree when, with criminal negligence, he or she causes the death of another person.

B. Manslaughter in the second degree is a felony.

(Res. 02-129 (part))

#### **9.12.100 Negligent homicide.**

A. A person is guilty of negligent homicide when: the death of any other person shall ensue within three years as a proximate result of injury received by the driving of any vehicle by the person while under the influence of or affected by intoxicating liquor or drugs or glue, or by the operation of any vehicle in a reckless manner or with disregard for the safety of others.

B. Negligent homicide is a felony.

(Res. 02-129 (part))

#### **9.12.105 Homicide by abuse.**

A. A person is guilty of homicide by abuse if, under circumstances manifesting an extreme indifference to human life, the person causes the death of a child, a developmentally disabled person, or a dependent adult, and the person has previously engaged in a pattern or practice of assault or torture of said child, developmentally disabled person, or dependent adult. "Dependent adult" means a person who because of a physical or mental disability or because of advanced age is dependent upon another person to provide the basic necessities of life.

- B. Homicide by abuse is a felony.

(Res. 02-129 (part))

**Article VI. Physical Harm**

[9.12.110 Assault in the first degree.](#)

[9.12.115 Assault in the second degree.](#)

[9.12.120 Assault in the third degree.](#)

[9.12.130 Assault in the fourth degree.](#)

[9.12.135 Reckless endangerment.](#)

[9.12.140 Promoting a suicide attempt.](#)

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[9.12.150 Child abuse or neglect.](#)

[9.12.155 Elder abuse or neglect.](#)

[9.12.160 Malicious harassment.](#)

**9.12.110 Assault in the first degree.**

- A. Every person, who with the intent to kill a human being, or to commit a felony upon the person or property of the one assaulted, or of another, shall be guilty of assault in the first degree when he or she:

1. Shall assault another with a firearm or any deadly weapon or by any force or means likely to produce death; or
2. Shall administer to, or cause to be taken by, another, poison or any other destructive or noxious thing so as to endanger the life of another person.

- B. Assault in the first degree is a felony.

(Res. 02-129 (part))

**9.12.115 Assault in the second degree.**

- A. Every person who, under circumstances not amounting to assault in the first degree, shall be guilty of assault in the second degree when he or she:

1. With the intent to injure, shall unlawfully administer to or cause to be taken by another, poison or any other destructive or noxious thing, or any drug or medicine the use of which is dangerous to life or health; or
2. Shall knowingly inflict grievous bodily harm upon another with or without a weapon; or
3. Shall knowingly assault another with a weapon or other instrument or thing likely to produce bodily harm; or
4. Shall knowingly assault another with intent to commit a felony; or
5. With criminal negligence, shall cause physical injury to another person by means of a weapon or other instrument or thing likely to produce bodily harm.

- B. Assault in the second degree is a felony.

(Res. 02-129 (part))

**9.12.120 Assault in the third degree.**

- A. Every person who, under circumstances not amounting to assault in either the first or second degree, shall assault another with intent to prevent or resist the execution of any lawful process or mandate of any court officer, or the lawful apprehension or detention of himself or another person shall be guilty of assault in the third degree.
- B. Assault in the third degree is a felony.

(Res. 02-129 (part))

**9.12.130 Assault in the fourth degree.**

- A. Every person who shall commit an assault or an assault and battery not amounting to assault in either the first, second, or third degree shall be guilty of assault in the fourth degree.
- B. Assault in the fourth degree is a gross misdemeanor.

(Res. 02-129 (part))

**9.12.135 Reckless endangerment.**

- A. A person is guilty of reckless endangerment when he or she recklessly engages in conduct that creates a substantial risk of death or serious physical injury to another person.
- B. Reckless endangerment is a felony if a person under the age of eighteen (18) years, a developmentally disabled person, or a dependent adult is endangered; in other cases reckless endangerment is a gross misdemeanor.
- C. Dependent adult is defined under Section 9.12.105.

(Res. 02-129 (part))

**9.12.140 Promoting a suicide attempt.**

- A. A person is guilty of promoting a suicide attempt when he or she knowingly causes or aids another person to attempt suicide.
- B. Promoting a suicide attempt is a felony.

(Res. 02-129 (part))

**9.12.145 Coercion.**

- A. A person is guilty of coercion if by use of a threat he or she compels or induces a person to engage in conduct that the latter has a legal right to abstain from, or to abstain from conduct that he or she has a legal right to engage in.
- B. "Threat" as used in this section means:
  - 1. To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or
  - 2. Threats as defined in Section 9.12.025.
- C. Coercion is a gross misdemeanor.

(Res. 02-129 (part))

**9.12.150 Child abuse or neglect.**

- A. A person is guilty of child abuse or neglect if he or she commits an act of violence, abuse or neglect on a child under the age of eighteen (18) years causing harm or injury to that child.
- B. Child abuse or neglect is a gross misdemeanor and upon conviction thereof, the offender may be required by the Court to undergo medical evaluation and treatment, in addition to or instead of any other sentence imposed by the Court.

(Res. 02-129 (part))

**9.12.155 Elder abuse or neglect.**

- A. A person is guilty of elder abuse or neglect if he or she commits an act of violence, abuse or neglect on a person over the age of \_\_\_\_ years causing harm or injury to that person.
- B. Elder abuse or neglect is a gross misdemeanor and upon conviction thereof, the offender may be required by the Court to undergo medical evaluation and treatment, in addition to or instead of any other sentence imposed by the Court.

(Res. 02-129 (part))

**9.12.160 Malicious harassment.**

- A. A person is guilty of malicious harassment if he or she, with intent to intimidate or harass another person because of that person's race, sexual preference, color, religion, ancestry, national origin, or mental, physical, or sensory handicap:
  - 1. Causes physical injury to another person; or
  - 2. By words or conduct threatens harm to another person or another's property or harm to the person or property of a third person; or
  - 3. Causes physical damage to or destruction of the property of another person.
- B. Malicious harassment is a gross misdemeanor. A person who commits malicious harassment may be required by the Court to compensate the victim(s) for actual and punitive damages.

(Res. 02-129 (part))

**Article VII. Kidnapping, Unlawful Imprisonment, and Custodial Interference**

[9.12.165 Definitions.](#)

[9.12.170 Kidnapping in the first degree.](#)

[9.12.175 Kidnapping in the second degree.](#)

[9.12.180 Unlawful imprisonment.](#)

[9.12.185 Custodial interference.](#)

[9.12.190 Defense to action for being detained on mercantile establishment premises.](#)

**9.12.165 Definitions.**

- A. For the purpose of kidnapping, unlawful imprisonment, and custodial interference offenses:
1. "Restrain" means to restrict a person's movements without consent and without legal authority in a manner that interferes substantially with his or her liberty. Restraint is without "consent" if it is accomplished by:
    - a. Physical force, intimidation, or deception; or
    - b. Any means including acquiescence of the victim, if he or she is a child less than sixteen (16) years old or an incompetent person and if the parent, guardian, or other person or institution having lawful control or custody of him or her has not acquiesced.
  2. "Abduct" means to restrain a person by either:
    - a. Sequestering or holding him or her in a place where he or she is not likely to be found; or
    - b. Using or threatening to use deadly force;
  3. "Relative" means an ancestor, descendant, or sibling, including a relative of the same degree through marriage or adoption, or a spouse.

(Res. 02-129 (part))

**9.12.170 Kidnapping in the first degree.**

- A. A person is guilty of kidnapping in the first degree if he or she intentionally abducts another person with intent:
1. To hold him or her for ransom or reward, or as a shield or hostage; or
  2. To facilitate commission of any felony or flight thereafter; or
  3. To inflict bodily injury on him or her; or
  4. To inflict extreme mental distress on him or her or a third person; or
  5. To interfere with the performance of any governmental function.

- B. Kidnapping in the first degree is a felony.

(Res. 02-129 (part))

**9.12.175 Kidnapping in the second degree.**

- A. A person is guilty of kidnapping in the second degree if he or she intentionally abducts another person under circumstances not amounting to kidnapping in the first degree.
- B. In any prosecution for kidnapping in the second degree, it is a defense if established by the defendant by a preponderance of the evidence that:
1. The abduction does not include the use, intent to use, or threat to use deadly force; and
  2. The actor is a relative of the person abducted; and
  3. The actor's sole intent is to assume custody of that person. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, any other crime.

- C. Kidnapping in the second degree is a felony.

(Res. 02-129 (part))

**9.12.180 Unlawful imprisonment.**

- A. A person is guilty of unlawful imprisonment if he or she knowingly restrains another person without lawful authority.
- B. Unlawful imprisonment is a felony.  
(Res. 02-129 (part))

**9.12.185 Custodial interference.**

- A. A person is guilty of custodial interference if, knowing that he or she has no legal right to do so, he or she takes or entices from lawful custody an incompetent person or other person entrusted by authority of law to the custody of another person or institution.
- B. Custodial interference is a gross misdemeanor.  
(Res. 02-129 (part))

**9.12.190 Defense to action for being detained on mercantile establishment premises.**

In any criminal action brought by reason of any person having been detained on or in the immediate vicinity of the premises of a mercantile establishment for the purpose of investigating or questioning as to the ownership of any merchandise, it shall be a defense to the action that:

- A. The person was detained in a reasonable manner and for not more than a reasonable time to permit the investigation or questioning by a law enforcement officer, by the owner's authorized employee or agent; and
- B. The person conducting the investigation or questioning had reasonable grounds to believe that the person detained committed or attempted to commit theft or shoplifting of the merchandise on the premises.

(Res. 02-129 (part))

**Article VIII. Arson, Reckless Burning, Malicious Mischief and Damage to Property**

[9.12.195 Definitions.](#)

[9.12.200 Arson in the first degree.](#)

[9.12.205 Arson in the second degree.](#)

[9.12.210 Reckless burning in the first degree.](#)

[9.12.215 Reckless burning in the second degree.](#)

[9.12.220 Reckless burning—Defense.](#)

[9.12.225 Malicious mischief in the first degree.](#)

[9.12.230 Malicious mischief in the second degree.](#)

[9.12.235 Malicious mischief in the third degree.](#)

[9.12.240 Desecration of religious sites.](#)

[9.12.245 Cutting timber without a permit.](#)

[9.12.250 Defacing signs, landmarks, or navigation markers.](#)

[9.12.255 Flag desecration.](#)

[9.12.260 Failure to control or report a fire.](#)

[9.12.265 Interference with fishing boats, gear, or fish.](#)

**9.12.195 Definitions.**

For the purpose of arson, reckless burning, malicious mischief, and damage to property offenses:

- A. "Building" has the definition in Section 9.12.025, and where a building consists of two or more units separately secured or occupied, each unit shall not be treated as a separate building.
- B. "Damages", in addition to its ordinary meaning, includes charring, scorching, burning, or breaking, or agricultural or industrial sabotage, and shall include any diminution in the value of any property as a consequence of an act.
- C. "Fire or explosion" includes fires or explosions caused by the discharge of fireworks.
- D. To constitute arson it shall not be necessary that a person other than the actor should have had ownership in the building or structure damaged or set on fire.

(Res. 02-129 (part))

**9.12.200 Arson in the first degree.**

- A. A person is guilty of arson in the first degree if he or she knowingly and maliciously:
  - 1. Causes a fire or explosion which is manifestly dangerous to any human life including firemen; or
  - 2. Causes a fire or explosion which damages a dwelling; or
  - 3. Causes a fire or explosion in any building in which there shall be at the time a human being who is not a participant in the crime.
- B. Arson in the first degree is a felony.

(Res. 02-129 (part))

**9.12.205 Arson in the second degree.**

- A. A person is guilty of arson in the second degree if he or she knowingly and maliciously causes a fire or explosion which damages a building, or any structure or erection appurtenant to or joining any building, or any wharf, dock, machine, engine, automobile, or other motor vehicle, watercraft, aircraft, bridge, or trestle, or hay, grain, crop, or timber, whether cut or standing or any range land, or pasture land, or any fence, or any lumber, shingle, or other timber products, or any property.
- B. Arson in the second degree is a felony.

(Res. 02-129 (part))

**9.12.210 Reckless burning in the first degree.**

- A. A person is guilty of reckless burning in the first degree if he or she recklessly damages a building or other structure or any vehicle, railway car, aircraft, or watercraft or any hay, grain, crop, or timber whether cut or standing, by knowingly causing a fire or explosion.
- B. Reckless burning in the first degree is a felony.

(Res. 02-129 (part))



**9.12.215 Reckless burning in the second degree.**

- A. A person is guilty of reckless burning in the second degree if he or she knowingly causes a fire or explosion, whether on his or her own property or that of another, and thereby recklessly places a building or other structure, or any vehicle, railway car, aircraft, or watercraft, or any hay, grain, crop or timber, whether cut or standing, in danger of destruction or damage.
- B. Reckless burning in the second degree is a gross misdemeanor.  
(Res. 02-129 (part))

**9.12.220 Reckless burning—Defense.**

In any prosecution for the crime of reckless burning in the first or second degrees, it shall be a defense if the defendant establishes by a preponderance of the evidence that:

- A. No person other than the defendant had a possessory, or pecuniary interest in the damage or endangered property, or if other persons had such an interest, all of them consented to the defendant's conduct; and
- B. The defendant's sole intent was to destroy or damage the property for a lawful purpose.

(Res. 02-129 (part))

**9.12.225 Malicious mischief in the first degree.**

- A. A person is guilty of malicious mischief in the first degree if he or she knowingly and maliciously:
  - 1. Causes physical damage to public property or to the property of another in an amount exceeding one thousand five hundred dollars (\$1,500.00); and
  - 2. Causes an interruption or impairment of service rendered to the public, by physically damaging or tampering with an emergency vehicle or property of the Squaxin Island Tribe, the federal government, the state, a political subdivision thereof, or a public utility or mode of public transportation, power, or communication.
- B. Malicious mischief in the first degree is a felony.

(Res. 02-129 (part))

**9.12.230 Malicious mischief in the second degree.**

- A. A person is guilty of malicious mischief in the second degree if he or she knowingly and maliciously:
  - 1. Causes physical damage to public property or to the property of another in an amount exceeding one thousand five hundred dollars (\$1,500.00); and
  - 2. Creates a substantial risk of interruption or impairment of service rendered to the public, by physically damaging or tampering with an emergency vehicle or property of the Squaxin Island Tribe, the federal government, the state, a political subdivision thereof, or a public utility or mode of public transportation, power or communication.
- B. Malicious mischief in the second degree is a felony.

(Res. 02-129 (part))

**9.12.235 Malicious mischief in the third degree.**

- A. A person is guilty of malicious mischief in the third degree if he or she knowingly and maliciously causes physical damage to public property or the property of another, under circumstances not amounting to malicious mischief in the first or second degree.
- B. Malicious mischief in the third degree is a gross misdemeanor if the damage to the property is in an amount exceeding fifty dollars (\$50.00); otherwise, it is a misdemeanor.

(Res. 02-129 (part))

**9.12.240 Desecration of religious sites.**

- A. A person is guilty of desecration of religious sites if he or she removes artifacts or other items from any burial grounds or from any traditional, sacred or religious area of the Squaxin Island Tribe, or otherwise desecrates in any fashion such grounds or areas.
- B. Desecration of religious sites is a gross misdemeanor.

(Res. 02-129 (part))

**9.12.245 Cutting timber without a permit.**

- A. A person is guilty of cutting timber without a permit if he or she cuts timber, standing or fallen, on tribal property without first obtaining a permit from the Squaxin Island Tribal Council or if he or she cuts timber, standing or fallen, on the property of another person without first obtaining the owner's permission.
- B. Cutting timber without a permit is a gross misdemeanor.

(Res. 02-129 (part))

**9.12.250 Defacing signs, landmarks, or navigation markers.**

- A. A person is guilty of defacing signs if he or she removes, alters or defaces any official sign, landmark, or navigation marker of the Squaxin Island Tribe, the state of Washington or the federal government.
- B. Defacing official signs is a misdemeanor.

(Res. 02-129 (part))

**9.12.255 Flag desecration.**

- A. A person is guilty of flag desecration if he or she publicly mutilates, defaces or defiles an official flag, color or design of the Squaxin Island Tribe or of the United States.
- B. Flag desecration is a misdemeanor.

(Res. 02-129 (part))

**9.12.260 Failure to control or report a fire.**

- A. A person is guilty of failure to control or report a fire if he or she knows that a fire is endangering a human life or property and he or she:
  - 1. Fails to give a prompt fire alarm; or

2. Fails to take a reasonable measure to control the fire without danger to himself or herself when he or she knows he or she has an official duty to combat or prevent the fire.
- B. Failure to control or report fire is a misdemeanor.
- (Res. 02-129 (part))

#### **9.12.265 Interference with fishing boats, gear, or fish.**

- A. A person is guilty of interference with fishing boats, gear, or fish if he or she uses or tampers with another's boat, fishing gear (as defined in Title 7 of the Squaxin Island Tribal Code), or fish, without authorization from the Squaxin Island Tribe including but not limited to possession of a valid fishing permit.
- B. Interference with fishing boats, gear, or fish is a misdemeanor.
- (Res. 02-129 (part))

### **Article IX. Burglary and Trespass**

#### [9.12.270 Definitions.](#)

#### [9.12.275 Burglary in the first degree.](#)

#### [9.12.280 Burglary in the second degree.](#)

#### [9.12.285 Inference of intent.](#)

#### [9.12.290 Other crime in committing burglary punishable.](#)

#### [9.12.295 Making or having burglar tools.](#)

#### [9.12.300 Criminal trespass in the first degree.](#)

#### [9.12.305 Criminal trespass in the second degree.](#)

#### [9.12.310 Criminal trespass—Defenses.](#)

#### [9.12.315 Vehicle prowling.](#)

#### **9.12.270 Definitions.**

For purposes of burglary and trespass offenses:

- A. "Premises" includes any building, dwelling, or any real property.
- B. "Enter". The word "enter" when constituting an element or part of a crime, shall include the entrance of the person or the insertion of any part of his or her body, or any instrument or weapon held in his or her hand and used or intended to be used to threaten or intimidate a person or to detach or remove property.
- C. "Enters or remains unlawfully". A person "enters or remains unlawfully" in or upon premises when he or she is not the licensee, invitee, or otherwise privileged to so enter or remain.
- D. A license or privilege to enter or remain in premises which are only partly open to the public is not a license or privilege to enter or remain in those parts of the premises which are not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him

or her by the owner of the land or some other authorized person, or unless notice is given by posting in a conspicuous manner.

(Res. 02-129 (part))

**9.12.275 Burglary in the first degree.**

A. A person is guilty of burglary in the first degree, if, with intent to commit a crime against a person or property therein, he or she enters or remains unlawfully in a dwelling and if, in entering or while in the dwelling or in immediate flight therefrom, the actor or another participant in the crime:

1. Is armed with a deadly weapon; or
2. Assaults any person therein.

B. Burglary in the first degree is a felony.

(Res. 02-129 (part))

**9.12.280 Burglary in the second degree.**

A. A person is guilty of burglary in the second degree if, with intent to commit a crime against a person or property therein, he or she enters or remains unlawfully in a building other than a dwelling.

B. Burglary in the second degree is a felony.

(Res. 02-129 (part))

**9.12.285 Inference of intent.**

In any prosecution for burglary, any person who enters or remains unlawfully in a building may be inferred to have acted with intent to commit a crime against a person or property therein, unless such entering or remaining shall be explained by evidence satisfactory to the trier of fact to have been made without such criminal intent.

(Res. 02-129 (part))

**9.12.290 Other crime in committing burglary punishable.**

Every person who, in the commission of a burglary shall commit any other crime, may be punished therefore as well as for the burglary, and may be prosecuted for each crime separately.

(Res. 02-129 (part))

**9.12.295 Making or having burglar tools.**

A. Every person who shall make or mend or cause to be made or mended, or have in his or her possession, any engine, machine, tool, false key, pick lock, bit, nippers, or implement adapted, designed, or commonly used for the commission of burglary under circumstances evincing an intent to use or employ, or allow the same to be used or employed in the commission of a burglary, or knowing that the same is intended to be so used, shall be guilty of making or having burglar tools.

B. Making or having burglar tools is a gross misdemeanor.

(Res. 02-129 (part))

**9.12.300 Criminal trespass in the first degree.**

- A. A person is guilty of criminal trespass in the first degree if he or she knowingly enters or remains unlawfully in a building or on real property adjacent thereto or upon real property that is fenced or otherwise enclosed in a manner designed to exclude intruders.
- B. A person is guilty of criminal trespass in the first degree if he or she enters or remains unlawfully in a building or on real property owned by the Squaxin Island Tribe, in fee or as the holder of a beneficial interest in land held in trust by the federal government, without the permission of the Squaxin Island Tribal Council; provided, that as a consequence of their affiliation with the tribe, all enrolled Squaxin Island Tribal members and their children may enter any tribal building or real property not locked or fenced (or otherwise enclosed) and secured in a manner designed to exclude intruders and they may remain in such building or on such property unless they are reasonably requested to leave by a Squaxin Island law enforcement officer.
- C. Criminal trespass in the first degree is a gross misdemeanor.

(Res. 02-129 (part))

**9.12.305 Criminal trespass in the second degree.**

- A. A person is guilty of criminal trespass in the second degree if he or she knowingly enters lands or buildings of another that are posted against such entrance in a manner adequate to provide reasonable notice, or if he or she remains on lands or in a building after discovering that the owner wishes to preclude his or her presence, by receiving actual notice of such preclusion, or under circumstances wherein a reasonable person would be sufficiently notified of such preclusion.
- B. Criminal trespass in the second degree is a misdemeanor.

(Res. 02-129 (part))

**9.12.310 Criminal trespass—Defenses.**

In any prosecution under Sections 9.12.300 or 9.12.305, it is a defense that:

- A. A building involved in an offense under Section 9.12.300 was abandoned; or
- B. The premises were at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the premises; or
- C. The actor reasonably believed that the owner of the premises, or other person empowered to license access thereto, would have licensed him or her to enter or remain.

(Res. 02-129 (part))

**9.12.315 Vehicle prowling.**

- A. A person is guilty of vehicle prowling if, with intent to commit a crime against a person or property therein, he or she enters or remains unlawfully in a vehicle.
- B. Vehicle prowling is a gross misdemeanor.

(Res. 02-129 (part))

**Article X. Theft and Robbery**

[9.12.320 Definitions.](#)

[9.12.325 Theft-Definition, defenses.](#)

[9.12.330 Theft in the first degree.](#)

[9.12.335 Theft in the second degree.](#)

[9.12.340 Theft in the third degree.](#)

[9.12.345 Unlawful issuance of checks or drafts.](#)

[9.12.350 Taking a motor vehicle without permission.](#)

[9.12.355 Extortion—Definition.](#)

[9.12.360 Extortion in the first degree.](#)

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[9.12.370 Possession of stolen property—Definition—Credit cards, presumption.](#)

[9.12.375 Possessing stolen property in the first degree.](#)

[9.12.380 Possessing stolen property in the second degree.](#)

[9.12.385 Possessing stolen property in the third degree.](#)

[9.12.390 Obscuring the identity of a machine.](#)

[9.12.395 Robbery—Definition.](#)

[9.12.400 Robbery in the first degree.](#)

[9.12.405 Robbery in the second degree.](#)

[9.12.410 Embezzlement.](#)

#### **9.12.320 Definitions.**

For the purposes of theft and robbery offenses:

- A. "Appropriate lost or misdelivered property or services" means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property.
- B. "By color or aid of deception" means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services.
- C. "Credit card" means any instrument or device, whether incomplete, revoked, or expired, whether known as a credit card, credit plate, courtesy card, or by any other name, issued with or without fee for the use of the cardholder in obtaining money, goods, services, or anything else of value, including satisfaction of a debt or the payment of a check drawn by a cardholder, either on credit or in consideration of an undertaking or guarantee by the insurer.
- D. "Deception" occurs when an actor knowingly:
  - 1. Creates or confirms another's false impression which the actor knows to be false; or
  - 2. Fails to correct another's impression which the actor previously has created or confirmed; or
  - 3. Prevents another from acquiring information material to the disposition of the property involved; or

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4. Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or
  5. Promises performance, which the actor does not intend to perform, or knows will be not be performed.
- E. "Deprive" in addition to its common meaning means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets, or computer programs; PROVIDED, that the aforementioned are of a private proprietary nature.
- F. "Obtain control over" in addition to its common meaning:
1. In relation to property, means to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or
  2. In relation to labor or service, means to secure performance thereof for the benefits of the obtainer or another.
  3. "Wrongfully obtains" or "exerts unauthorized control" means:
    - a. To take the property or services of another; or
    - b. Having any property or services in one's possession, custody or control as bailee, factor, pledgee, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody or control, to secrete, withhold, or appropriate the same to his or her own use or to the use of any person other than the true owner or person entitled thereto.
- G. "Owner" means a person, other than the actor, who has possession of or any other interest in the property or services involved, and without whose consent the actor has no authority to exert control over the property or services.
- H. "Receive" includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property.
- I. "Services" includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public nature such as gas, electricity, steam, and water.
- J. "Stolen" means obtained by theft, robbery, or extortion.
- K. "Value" means the market value of the property or services at the time and in the approximate area of the criminal act.
1. Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:
    - a. The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectable thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;
    - b. The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or other service shall be deemed the price stated thereon, if any, and if no price is stated thereon, the value shall be deemed the price of such ticket or equivalent instrument which the issuer charged the general public;
    - c. The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest

amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

2. Whenever any series of transactions which constitute theft would, when considered separately, constitute theft in the third degree because of value, and said series of transactions are part of a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value considered in determining the degree of theft involved.
3. Whenever any person is charged with possessing stolen property and such person has unlawfully in his or her possession at the same time the stolen property of more than one person, then the stolen property possessed may be aggregated in one count and the sum of the value of all said stolen property shall be the value considered in determining the degree of theft involved.
4. Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of a value not exceeding two hundred fifty dollars (\$250.00).

(Res. 02-129 (part))

#### **9.12.325 Theft-Definition, defenses.**

A. "Theft" means:

1. To wrongfully obtain or exert unauthorized control over the value or property or services of another or the value thereof, with intent to deprive him or her of such property or services; or
2. By color or aid of deception to obtain control over the property or services of another or the value thereof, with intent to deprive him or her of such property or services; or
3. To appropriate lost or misdelivered property or services of another, or the value thereof, with intent to deprive him or her of such property or services.

B. In any prosecution for theft, it shall be sufficient defense that the property or service was appropriated openly and avowedly under a claim of title made in good faith, even though the claim is untenable.

(Res. 02-129 (part))

#### **9.12.330 Theft in the first degree.**

A. A person is guilty of theft in the first degree if he or she commits theft of:

1. Property or services which exceed(s) one thousand five hundred dollars (\$1,500.00) in value; or
2. Property of any value taken from the person of another.

B. Theft in the first degree is a felony.

(Res. 02-129 (part))

#### **9.12.335 Theft in the second degree.**

A. A person is guilty of theft in the second degree if he or she commits theft of:

1. Property or services which exceed(s) two hundred fifty dollars (\$250.00) in value, but does not exceed one thousand five hundred dollars (\$1,500.00) in value; or
2. A public record, writing, or instrument kept, filed, or deposited according to law with or in the keeping of any public office or public servant; or



- 3. A credit card; or
  - 4. A motor vehicle of a value that does not exceed one thousand five hundred dollars (\$1,500.00).
- B. Theft in the second degree is a felony.
- (Res. 02-129 (part))

**9.12.340 Theft in the third degree.**

- A. A person is guilty of theft in the third degree if he or she commits theft of property or services that does not exceed two hundred fifty dollars (\$250.00) in value.
- B. Theft in the third degree is a gross misdemeanor.
- (Res. 02-129 (part))

**9.12.345 Unlawful issuance of checks or drafts.**

- A. Any person who shall, with intent to defraud, make, or draw, or utter, or deliver to another person any check or draft on a bank or other depository for the payment of money, knowing at the time of such drawing or delivery, that he or she has not sufficient funds in or credit with said bank or other depository to meet said check or draft in full upon its presentation, shall be guilty of unlawful issuance of a bank check. The word "credit" as used herein shall be construed to mean an arrangement or understanding with the bank or other depository for the payment of such check or draft, and the uttering or delivering of such a check or draft to another person without such fund or credit to meet the same shall be prima facie evidence of an intent to defraud.
- B. Unlawful issuance of a bank check in an amount greater than two hundred fifty dollars (\$250.00) is a felony.
- C. Unlawful issuance of a bank check in an amount of two hundred fifty dollars (\$250.00) or less is a gross misdemeanor.
- (Res. 02-129 (part))

**9.12.350 Taking a motor vehicle without permission.**

- A. Every person who shall, without the permission of the owner or person entitled to the possession thereof, intentionally take or drive away any automobile or motor vehicle, whether propelled by steam, electricity, or internal combustion engine, shall be deemed guilty of a felony, and every person voluntarily riding in or upon said automobile or motor vehicle with knowledge of the fact that the same was unlawfully taken shall be equally guilty with the person taking or driving said automobile or motor vehicle and shall be deemed guilty of taking a motor vehicle without permission.
- B. Taking a motor vehicle without permission is a felony.
- (Res. 02-129 (part))

**9.12.355 Extortion—Definition.**

"Extortion" means knowingly to obtain or attempt to obtain by threat property or services of the owner or the person entitled thereto.

(Res. 02-129 (part))

**9.12.360 Extortion in the first degree.**

- A. A person is guilty of extortion in the first degree if he or she commits extortion by means of a threat as defined in Section 9.12.025(1), (2), or (3).
- B. Extortion in the first degree is a felony.

(Res. 02-129 (part))

**9.12.365 Extortion in the second degree.**

- A. A person is guilty of extortion in the second degree if he or she commits extortion by means of a threat as defined in Section 9.12.025(4) through (10).
- B. In any prosecution under this section based on a threat to accuse any person of a crime or cause criminal charges to be instituted against any person, it is a defense that the actor reasonably believed the threatened criminal charge to be true and that his or her sole purpose was to compel or induce the person threatened to take reasonable actions to make good the wrong which was the subject of such threatened criminal charge.
- C. Extortion in the second degree is a felony.

(Res. 02-129 (part))

**9.12.370 Possession of stolen property—Definition—Credit cards, presumption.**

- A. "Possession of stolen property" means knowingly to receive, retain, possess, conceal, or dispose of stolen property knowing that it has been stolen and to withhold or appropriate the same to the use of any person other than the true owner or person entitled thereto.
- B. The fact that the person who stole the property has not been convicted, apprehended, or identified is not a defense to a charge of possessing stolen property.
- C. When a person not an issuer or agent thereof has in his or her possession or under his or her control stolen credit cards issued in the names of two or more persons, he or she shall be presumed to know that they are stolen. This presumption may be rebutted by evidence raising a reasonable inference that the possession of such stolen credit cards was without knowledge that they were stolen.

(Res. 02-129 (part))

**9.12.375 Possessing stolen property in the first degree.**

- A. A person is guilty of possessing stolen property in the first degree if he or she possesses stolen property that exceeds one thousand five hundred dollars (\$1,500.00) in value.
- B. Possessing stolen property in the first degree is a felony.

(Res. 02-129 (part))

**9.12.380 Possessing stolen property in the second degree.**

- A. A person is guilty of possessing stolen property in the second degree if:
  - 1. He or she possesses stolen property that exceeds two hundred fifty dollars (\$250.00) in value but does not exceed one thousand five hundred dollars (\$1,500.00) in value;
  - 2. He or she possesses a stolen public record, writing or instrument kept, filed, or deposited according to law; or

3. He or she possesses a stolen credit card; or
  4. He or she possesses a stolen motor vehicle of a value that does not exceed one thousand five hundred dollars (\$1,500.00); or
  5. He or she possesses a stolen firearm.
- B. Possessing stolen property in the second degree is a felony.
- (Res. 02-129 (part))

**9.12.385 Possessing stolen property in the third degree.**

- A. A person is guilty of possessing stolen property in the third degree if he or she possesses stolen property, which does not exceed two hundred fifty dollars (\$250.00) in value.
- B. Possessing stolen property in the third degree is a gross misdemeanor.
- (Res. 02-129 (part))

**9.12.390 Obscuring the identity of a machine.**

- A. A person is guilty of obscuring the identity of a machine if he or she knowingly:
1. Obscures the manufacturer's serial number or any other distinguishing identification number or mark upon any vehicle, machine, engine, apparatus, appliance, or other device with intent to render it unidentifiable; or
  2. Possesses a vehicle, machine, engine, apparatus, appliance, or other device held for sale knowing that the serial number or other identification number or mark has been obscured.
- B. "Obscure" means to remove, deface, cover, alter, destroy, or otherwise render unidentifiable.
- C. Obscuring the identity of a machine is a gross misdemeanor.
- (Res. 02-129 (part))

**9.12.395 Robbery—Definition.**

A person commits robbery when he or she unlawfully takes personal property from the person of another or in his or her presence against his or her will by the use or threatened use of immediate force, violence, or fear of injury to that person or his or her property or the person or property of anyone. Such force or fear must be used to obtain or retain possession of the property, or to prevent or overcome resistance to the taking, in either of which cases the degree of force is immaterial. Such taking constitutes robbery whenever it appears that, although the taking was fully completed without the knowledge of the person from whom taken, such knowledge was prevented by the use of force or fear.

(Res. 02-129 (part))

**9.12.400 Robbery in the first degree.**

- A. A person is guilty of robbery in the first degree if in the commission of a robbery or of immediate flight therefrom, he or she:
1. Is armed with a deadly weapon; or
  2. Displays what appears to be a firearm or other deadly weapon; or
  3. Inflicts bodily injury.
- B. Robbery in the first degree is a felony.

(Res. 02-129 (part))

**9.12.405 Robbery in the second degree.**

- A. A person is guilty of robbery in the second degree if he or she commits robbery.
- B. Robbery in the second degree is a felony.

(Res. 02-129 (part))

**9.12.410 Embezzlement.**

- A. A person is guilty of embezzlement if he or she has lawful custody of property not his or her own and he or she appropriates that property to his or her own use or for the use of another person not the owner with intent to deprive the owner thereof.
- B. Embezzlement is a gross misdemeanor.

(Res. 02-129 (part))

**Article XI. Fraud**

[9.12.415 Definitions.](#)

[9.12.420 Fraud.](#)

[9.12.425 Forgery.](#)

[9.12.430 Obtaining a signature by deception or duress.](#)

[9.12.435 Criminal impersonation.](#)

[9.12.440 Unauthorized use of tribal identification card.](#)

**9.12.415 Definitions.**

For the purpose of fraud offenses:

- A. "Written instrument" means:
  - 1. Any paper, document, or other instrument containing written or printed matter or its equivalent; or
  - 2. Any credit card, as defined in Section 9.12.320(C), token stamp, seal, badge, trademark, or other evidence or symbol of value, right, privilege, or identification.
- B. "Complete written instrument" means one which is fully drawn with respect to every essential feature thereof.
- C. "Incomplete written instrument" means one which contains some matter by way of content or authentication but which requires additional matter in order to render it a complete written instrument.
- D. To "falsely make" a written instrument means to make or draw a complete or incomplete written instrument which purports to be authentic, but which is not authentic either because the ostensible maker is fictitious or because, if real, he or she did not authorize the making or drawing thereof.

- E. To "falsely complete" a written instrument means to transform an incomplete written instrument into a complete one by adding or inserting matter, without the authority of anyone entitled to grant it.
- F. To "falsely alter" a written instrument means to change, without authorization by anyone entitled to grant it, a written instrument, whether complete or incomplete by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner.
- G. "Forged instrument" means a written instrument, which has been falsely made, completed or altered.

(Res. 02-129 (part))

#### **9.12.420 Fraud.**

- A. A person is guilty of fraud if he or she obtains something of value by willful misrepresentation or deception or by the intentional use of false weights or measures.
- B. Fraud is a gross misdemeanor.

(Res. 02-129 (part))

#### **9.12.425 Forgery.**

- A. A person is guilty of forgery if, with intent to injure or defraud:
  - 1. He or she falsely makes, completes, or alters a written instrument; or
  - 2. He or she possesses, utters, disposes of, or puts off as true a written instrument, one which he or she knows to be forged.
- B. Forgery is a felony.

(Res. 02-129 (part))

#### **9.12.430 Obtaining a signature by deception or duress.**

- A. A person is guilty of obtaining a signature by deception or duress if by deception or duress and with intent to defraud or deprive he or she causes another person to sign or execute a written instrument.
- B. Obtaining a signature by deception or duress is a felony.

(Res. 02-129 (part))

#### **9.12.435 Criminal impersonation.**

- A. A person is guilty of criminal impersonation if he or she:
  - 1. Assumes a false identity and does an act in his or her assumed character with the intent to defraud another or for any other unlawful purpose; or
  - 2. Pretends to be a representative of some person or organization or a public servant and does an act in his or her pretended capacity with intent to defraud another or for any other unlawful purpose.
- B. Criminal impersonation is a gross misdemeanor.

(Res. 02-129 (part))

**9.12.440 Unauthorized use of tribal identification card.**

- A. A person is guilty of unauthorized use of tribal ID card if:
1. He or she is an enrolled member of the Squaxin Island Tribe and he or she loans his or her tribal ID card to another person not legally entitled to the benefits of Squaxin Island Tribal membership; or
  2. He or she is not legally entitled to the benefits of Squaxin Island tribal membership and he or she uses the ID card of a member of the Squaxin Island Tribe.
- B. Unauthorized use of tribal ID card is a gross misdemeanor.
- (Res. 02-129 (part))

**Article XII. Family Offenses**

[9.12.445 Bigamy.](#)

[9.12.450 Incest.](#)

[9.12.455 Desertion and Non-support of children.](#)

[9.12.460 Failure to support dependent persons.](#)

**9.12.445 Bigamy.**

- A. A person is guilty of bigamy if he or she intentionally marries or purports to marry another person when either person has a living spouse.
- B. In any prosecution under this section, it is a defense that at the time of the subsequent marriage or purported marriage:
1. The actor reasonably believed that the prior spouse was dead; or
  2. A court had entered a judgment purporting to terminate or annul any prior disqualifying marriage and the actor did not know that such judgment was invalid; or
  3. The actor reasonably believed that he or she was legally eligible to marry.
- C. Bigamy is a felony.
- (Res. 02-129 (part))

**9.12.450 Incest.**

- A. A person is guilty of incest if he or she engages in sexual intercourse with a person whom he or she knows to be related to him or her, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either the whole or the half blood.
- B. As used in this section, "descendant" includes stepchildren and adopted children under eighteen (18) years of age.
- C. Incest is a gross misdemeanor and upon conviction thereof, the offender may be required by the Court to undergo medical evaluation and treatment in addition to or instead of any other sentence imposed by the Court.
- (Res. 02-129 (part))

**9.12.455 Desertion and Non-support of children.**

- A. A person is guilty of desertion and non-support of children if he or she deserts or willfully neglects or refuses to provide for the support or maintenance of his or her child, or of a child in his or her custody, when he or she is financially able to provide therefore.
- B. Desertion and non-support of children is a gross misdemeanor and upon conviction thereof, the offender may be required by the Court to provide for support and maintenance in addition to or instead of any other sentence imposed by the Court.

(Res. 02-129 (part))

**9.12.460 Failure to support dependent persons.**

- A. A person is guilty of failure to support dependent persons if he or she, without reasonable excuse, refuses or neglects to furnish food, shelter or care to those dependent upon him or her under the laws or customs and usages of the Squaxin Island Tribe, or if he or she fails to make proper use of funds or property of a dependent person for the benefit of the dependent.
- B. Failure to support dependent persons is a misdemeanor and upon conviction thereof, the offender may be required by the Court to provide adequate and proper support, in addition to or instead of any other sentence imposed by the Court.

(Res. 02-129 (part))

**Article XIII. Bribery and Corrupt Influence**

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**9.12.465 Bribery.**

- A. A person is guilty of bribery if:
  - 1. With the intent to secure a particular result in a particular matter involving the exercise of the public servant's vote, opinion, judgment, exercise of discretion, or other action in his or her official capacity, he or she offers, confers, or agrees to confer any pecuniary benefit upon such public servant; or
  - 2. Being a public servant, he or she requests, accepts, or agrees to accept any pecuniary benefit pursuant to an agreement or understanding that his or her vote, opinion, judgment, exercise of discretion, or other action as a public servant will be used to secure a particular result in a particular matter.
- B. It is no defense to a to a prosecution under this section that the public servant sought to be influenced was not qualified to act in the desired way, whether because he or she had not yet assumed office, lacked jurisdiction, or for any other reason.
- C. Bribery is a felony.

(Res. 02-129 (part))

**9.12.470 Requesting unlawful compensation.**

- A. A public servant is guilty of requesting unlawful compensation if he or she requests a pecuniary benefit for the performance of an official action knowing that he or she is required to perform that action without compensation or at a level of compensation lower than that requested.

- B. Requesting unlawful compensation is a felony.

(Res. 02-129 (part))

**9.12.475 Receiving or granting unlawful compensation.**

- A. A person is guilty of receiving or granting unlawful compensation if:

1. Being a public servant, he or she requests, accepts, or agrees to accept compensation for advice or other assistance in preparing a bill, contract, claim, or transaction regarding which he or she knows he or she is likely to have an official discretion to exercise; or
2. He or she knowingly offers, pays, or agrees to pay compensation to a public servant for advice or other assistance in preparing or promoting a bill, contract, claim, or other transaction regarding which the public servant is likely to have an official discretion to exercise.

- B. Receiving or granting unlawful compensation is a felony.

(Res. 02-129 (part))

**9.12.480 Trading in public office.**

- A. A person is guilty of trading in public office if:

1. He or she offers, confers, or agrees to confer any pecuniary benefit upon a public servant pursuant to an agreement or understanding that such actor will or may be appointed to a public office; or
2. Being a public servant, he or she requests, accepts, or agrees to accept any pecuniary benefit from another person pursuant to an agreement or understanding that such person will or may be appointed to a public office.

- B. Trading in public office is a felony.

(Res. 02-129 (part))

**9.12.485 Trading in special influence.**

- A. A person is guilty of trading in special influence if:

1. He or she offers or agrees to confer any pecuniary benefit upon another person pursuant to an agreement or understanding that such other person will offer or confer a benefit upon a public servant or procure another to do so with intent thereby to secure or attempt to secure a particular result in a particular matter; or
2. He or she requests, accepts, or agrees to accept any pecuniary benefit pursuant to an agreement or understanding that he or she will offer or confer a benefit upon a public servant or procure another to do so with intent thereby to secure or attempt to secure a particular result in a particular matter.

- B. Trading in special influence is a felony.

(Res. 02-129 (part))



## **Article XIV. Perjury**

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## **9.12.490 Definitions.**

For the purpose of perjury offenses:

- A. "Juror" means any person who is a member of any jury, including a grand jury, impaneled by the Squaxin Island Tribal Court, or by any public servant authorized by law to impanel a jury; the term juror also includes any person who has been drawn or summoned to attend as a prospective juror.
- B. "Materially false statement" means any false statement oral or written, regardless of its admissibility under the rules of evidence, which could have affected the course or outcome of the proceeding; whether a false statement is material shall be determined by the Court as a matter of law.
- C. "Oath" includes an affirmation and every other mode authorized by law of attesting to the truth of that which is stated; in this code, written statements shall be treated as if made under oath if:
  - 1. The statement was made on or pursuant to instructions on an official form bearing notice, authorized by law, to the effect that false statements made therein are punishable; or
  - 2. The statement recites that it was made under oath, the declarant was aware of such recitation at the time he or she made the statement, intended that the statement should be represented as a sworn statement, and the statement was in fact so represented by its delivery or utterance with the signed jurat of an officer authorized to administer oaths appended thereto; or
  - 3. The statement was made in substantial compliance with subsection (C)(1) or (2) of this section.
  - 4. An oath is "required or authorized by law" when the use of the oath is specifically provided for by statute or regulatory provision.

- D. "Official proceeding" means a proceeding heard before any legislative, judicial, administrative, or other government agency or official authorized to hear evidence under oath, including any referee, hearing examiner, commissioner, notary, or other person taking testimony or deposition.
- E. "Testimony" includes oral or written statements, documents, or any other material that may be offered by a witness in an official proceeding.

(Res. 02-129 (part))

#### **9.12.495 Perjury in the first degree.**

- A. A person is guilty of perjury in the first degree if in any official proceeding he or she makes a materially false statement, which he or she knows to be false under an oath required or authorized by law.
- B. Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his or her statement was not material is not a defense to a prosecution under this section.
- C. Perjury in the first degree is a felony.

(Res. 02-129 (part))

#### **9.12.500 Perjury in the second degree.**

- A. A person is guilty of perjury in the second degree if, with intent to mislead a public servant in the performance of his or her duty, he or she makes a materially false statement, which he or she knows to be false under an oath required or authorized by law.
- B. Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his or her statement was not material is not a defense to a prosecution under this section.
- C. Perjury in the second degree is a felony.

(Res. 02-129 (part))

#### **9.12.505 False swearing.**

- A. A person is guilty of false swearing if he or she makes a false statement, which he or she knows to be false, under an oath required or authorized by law.
- B. False swearing is a gross misdemeanor.

(Res. 02-129 (part))

#### **9.12.510 Perjury and false swearing—Inconsistent statements—Degree of crime.**

- A. Where, in the course of one or more official proceedings, a person makes inconsistent material statements under oath, the prosecution may proceed by setting forth the inconsistent statements in a single count alleging in the alternative that one or the other was false and known by the defendant to be false. In such case it shall not be necessary for the prosecution to prove which material statement was false but only that one or the other was false and known by the defendant to be false.
- B. The highest offense of which a person may be convicted in such an instance as set forth in subsection A of this section shall be determined by hypothetically assuming each statement to be false. If perjury of different degrees would be established by the making of the two statements, the

person may only be convicted of the lesser degree. If perjury or false swearing would be established by the making of the two statements, the person may only be convicted of false swearing. For purposes of this section, no corroboration shall be required of either inconsistent statement.

(Res. 02-129 (part))

#### **9.12.515 Perjury and false swearing—Retraction.**

No person shall be convicted of perjury or false swearing if he or she retracts his or her false statement in the course of the same proceeding in which it was made, if in fact he or she does so before it becomes manifest that the falsification is or will be exposed and before the falsification substantially affects the proceeding. Statements made in separate hearings at separate stages of the same trial, administrative, or other official proceeding shall be treated as if made in the course of the same proceeding.

(Res. 02-129 (part))

#### **9.12.520 Perjury and false swearing—Irregularities no defense.**

It is no defense to a prosecution for perjury or false swearing:

- A. That the oath was administered or taken in an irregular manner; or
- B. That the person administering the oath lacked authority to do so, if the taking of the oath was required or authorized by law.

(Res. 02-129 (part))

#### **9.12.525 Statement of what one does not know to be true.**

Every unqualified statement of that which one does not know to be true is equivalent to a statement of that which he or she knows to be false.

(Res. 02-129 (part))

#### **9.12.530 Bribing a witness.**

- A. A person is guilty of bribing a witness if he or she offers, confers, or agrees to confer any benefit upon a witness or a person he or she has reason to believe is about to be called as a witness in any official proceeding with intent to:
  - 1. Influence the testimony of that person; or
  - 2. Induce that person to avoid legal process summoning him or her to testify; or
  - 3. Induce that person to absent himself or herself from an official proceeding to which he or she has been legally summoned.
- B. Bribing a witness is a felony.

(Res. 02-129 (part))

#### **9.12.535 Bribe receiving by a witness.**

- A. A witness or a person who has reason to believe he or she is about to be called as a witness in any official proceeding is guilty of bribe receiving by a witness if he or she requests, accepts, or agrees to accept any benefit pursuant to an agreement or understanding that:

1. His or her testimony will thereby be influenced; or
  2. He or she will attempt to avoid legal process summoning him or her to testify; or
  3. He or she will attempt to absent himself or herself from an official proceeding to which he or she has been legally summoned.
- B. Bribe receiving by a witness is a felony.  
(Res. 02-129 (part))

**9.12.540 Intimidating a witness.**

- A. A person is guilty of intimidating a witness if, by the use of a threat directed to a witness or a person he or she has reason to believe is about to be called as a witness in any official proceeding, he or she attempts to:
1. Influence the testimony of that person; or
  2. Induce that person to elude legal process summoning him or her to testify; or
  3. Induce that person to absent himself or herself from such proceeding.
- B. "Threat" as used in this section means:
1. To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or
  2. Threats as defined in Section 9.12.025.
- C. Intimidating a witness is a felony.  
(Res. 02-129 (part))

**9.12.545 Tampering with a witness.**

- A. A person is guilty of tampering with a witness if he or she attempts to induce a witness or person he or she has reason to believe is about to be called as a witness in any official proceeding to:
1. Testify falsely or, without right or privilege to do so, to withhold any testimony; or
  2. Absent himself from such proceedings.
- B. Tampering with a witness is a felony.  
(Res. 02-129 (part))

**9.12.550 Intimidating a juror.**

- A. A person is guilty of intimidating a juror if, by use of a threat, he or she attempts to influence a juror's vote, opinion, decision, or other official action as a juror.
- B. "Threat" as used in this section means:
1. To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or
  2. Threats as defined in Section 9.12.025.
- C. Intimidating a juror is a felony.  
(Res. 02-129 (part))

**9.12.555 Jury tampering.**

- A. A person is guilty of jury tampering if, with intent to influence a juror's vote, opinion, decision, or other official action in a case, he or she attempts to communicate directly or indirectly with a juror other than as part of the proceedings in the trial of the case.

- B. Jury tampering is a gross misdemeanor.

(Res. 02-129 (part))

**9.12.560 Tampering with physical evidence.**

- A. A person is guilty of tampering with physical evidence if, having reason to believe that an official proceeding is pending or about to be instituted and acting without legal right or authority, he or she:

1. Destroys, mutilates, conceals, removes, or alters physical evidence with intent to impair its appearance, character, or availability in such pending or prospective official proceeding or with disregard to the fact that such action will impair its appearance, character, or availability in such pending or prospective official proceeding; or
2. Causes to be destroyed, mutilated, concealed, removed, or altered physical evidence with intent to impair its appearance, character, or availability in such pending or prospective official proceeding or with disregard to the fact that such action will impair its appearance, character, or availability in such pending or prospecting official proceeding; or
3. Knowingly presents or offers any false physical evidence.

- B. "Physical evidence" as used in this section includes any article, object, document, record, or other thing of physical substance and includes any information or record stored in electronic or any other form capable of being represented in a physical form.

- C. The fact that any physical evidence would normally have been destroyed, mutilated, concealed, removed, or altered in the ordinary course of business shall not be a defense to prosecution under this section if the defendant had reason to believe that an official proceeding was pending or was about to be instituted.

- D. Tampering with physical evidence is a gross misdemeanor.

(Res. 02-129 (part))

**Article XV. Obstructing Governmental Operation**

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[9.12.645 Intimidating a public servant.](#)

#### **9.12.565 Definitions.**

For the purpose of obstructing governmental operation offenses:

- A. "Contraband" means any article or thing that a person confined in a detention facility is prohibited from obtaining or possessing by statute, rule, regulation, or order of a court.
- B. "Custody" means restraint pursuant to a lawful arrest or an order of a court.
- C. "Detention facility" means any place used for the confinement of a person:
  - 1. Arrested for, charged with or convicted of an offense; or
  - 2. Charged with being or adjudicated to be a dependent or delinquent child; or
  - 3. Held for extradition or as a material witness; or
  - 4. Otherwise confined pursuant to an order of a court; or
  - 5. In any work release, furlough, or other such facility program.

(Res. 02-129 (part))

#### **9.12.570 Obstructing a public servant.**

- A. Every person shall be guilty of obstructing a public servant who:
  - 1. Without lawful excuse shall refuse or knowingly fail to make or furnish any statement, report, or information lawfully required of him or her by a public servant; or
  - 2. In any such statement or report shall make any knowingly untrue statement to a public servant; or
  - 3. Shall knowingly hinder, delay, or obstruct any public servant in the discharge of his or her official powers or duties.
- B. Obstructing a public servant is a misdemeanor.

(Res. 02-129 (part))

#### **9.12.575 Refusing to summon aid for a peace officer.**

- A. A person is guilty of refusing to summon aid for a peace officer if, upon request by a person he or she knows to be a peace officer, he or she unreasonably refuses to or fails to summon aid for such peace officer.
- B. Refusing to summon aid for a peace officer is a misdemeanor.

(Res. 02-129 (part))

**9.12.580 Refusing to aid an officer.**

- A. A person is guilty of refusing to aid an officer if he or she neglects or refuses, when called upon by a law enforcement officer of the Squaxin Island Tribe, to assist that officer or any other law enforcement officer in the lawful arrest of any person charged or convicted of any offense, or to assist in conveying the offender to the nearest place of confinement. It shall be a defense to this offense that the person refused to aid an officer because he or she had a reasonable belief that he or she would be physically endangered by assisting the officer.
- B. Refusing to aid an officer is a gross misdemeanor.  
(Res. 02-129 (part))

**9.12.590 Resisting arrest.**

- A. A person is guilty of resisting arrest if he or she intentionally prevents or attempts to prevent a peace officer from lawfully arresting him or her.
- B. Resisting arrest is a misdemeanor.  
(Res. 02-129 (part))

**9.12.595 Rendering criminal assistance—Definition of terms.**

For the purpose of rendering criminal assistance offenses:

- A. A person "renders criminal assistance" if, with intent to prevent, hinder, or delay the apprehension or prosecution of another person who he or she knows has committed a crime or is being sought by law enforcement officials for the commission of a crime or has escaped from a detention facility, he or she:
  - 1. Harbors or conceals such person; or
  - 2. Warns such person of impending discovery or apprehension; or
  - 3. Provides such person with money, transportation, disguise, or other means of avoiding discovery or apprehension; or
  - 4. Prevents or obstructs, by use of force, deception, or threat, anyone from performing an act that might aid in the discovery or apprehension of such person; or
  - 5. Conceals, alters, or destroys any physical evidence that might aid in the discovery or apprehension of such person; or
  - 6. Provides such person with a weapon.
- B. "Relative" means a person:
  - 1. Who is related as husband or wife, brother or sister, parent or grandparent, child or grandchild, step-child or step-parent to the person to whom criminal assistance is rendered; and
  - 2. Who does not render criminal assistance to another person in one or more of the means defined in Section 9.12.595(A)(4), (5) or (6).

(Res. 02-129 (part))

**9.12.600 Rendering criminal assistance in the first degree.**

- A. A person is guilty of rendering criminal assistance in the first degree if he or she renders criminal assistance to a person who has committed or is being sought for murder in the first degree or any felony.
  - B. Rendering criminal assistance in the first degree is:
    - 1. A gross misdemeanor if it is established by a preponderance of the evidence that the actor is a relative as defined in Section 9.12.595(B);
    - 2. A felony in all other cases.
- (Res. 02-129 (part))

**9.12.605 Rendering criminal assistance in the second degree.**

- A. A person is guilty of rendering criminal assistance in the second degree if he or she renders criminal assistance to a person who has committed or is being sought for a gross misdemeanor.
  - B. Rendering criminal assistance in the second degree is:
    - 1. A misdemeanor if it is established by a preponderance of the evidence that the actor is a relative as defined in Section 9.12.595(B);
    - 2. A gross misdemeanor in all other cases.
- (Res. 02-129 (part))

**9.12.610 Rendering criminal assistance in the third degree.**

- A. A person is guilty of rendering criminal assistance in the third degree if he or she renders criminal assistance to a person who has committed a misdemeanor.
  - B. Rendering criminal assistance in the third degree is a misdemeanor.
- (Res. 02-129 (part))

**9.12.615 Compounding.**

- A. A person is guilty of compounding if:
    - 1. He or she requests, accepts, or agrees to accept any pecuniary benefit pursuant to an agreement or understanding that he or she will refrain from initiating a prosecution for a crime; or
    - 2. He or she confers or offers or agrees to confer, any pecuniary benefit upon another pursuant to an agreement or understanding that such other person will refrain from initiating a prosecution for a crime.
  - B. In any prosecution under this section, it is a defense if established by a preponderance of the evidence that the pecuniary benefit did not exceed an amount which the defendant reasonably believed to be due as restitution or indemnification for harm caused by the crime.
  - C. Compounding is a gross misdemeanor.
- (Res. 02-129 (part))



**9.12.620 Escape in the first degree.**

- A. A person is guilty of escape in the first degree if, being detained pursuant to a conviction of a felony, he or she escapes from custody or a detention facility.
- B. Escape in the first degree is a felony.  
(Res. 02-129 (part))

**9.12.625 Escape in the second degree.**

- A. A person is guilty of escape in the second degree if:
  - 1. He or she escapes from a detention facility; or
  - 2. Having been charged with a felony, he or she escapes from custody.
- B. Escape in the second degree is a felony.  
(Res. 02-129 (part))

**9.12.630 Escape in the third degree.**

- A. A person is guilty of escape in the third degree if he or she escapes from custody.
- B. Escape in the third degree is a gross misdemeanor.  
(Res. 02-129 (part))

**9.12.635 Bail jumping.**

- A. Any person having been released by court order or admitted to bail with the requirement of a subsequent personal appearance before the Tribal Court, and who knowingly fails without lawful excuse to appear as required is guilty of bail jumping. Unless otherwise established, the failure to appear when required shall be inferred to have been without lawful excuse.
- B. Bail jumping is: a felony if the person was held for, charged with, or convicted of a felony; a gross misdemeanor if the person was held for, charged with, or convicted of a gross misdemeanor; and a misdemeanor if the person was held for, charged with, or convicted of a misdemeanor.  
(Res. 02-129 (part))

**9.12.640 Flight to avoid prosecution.**

- A. A person is guilty of flight to avoid prosecution if he or she willfully and knowingly flees from the jurisdiction of the Squaxin Island Tribe or the Tribal Court to avoid prosecution in any case pending before the Tribal Court.
- B. Flight to avoid prosecution is a gross misdemeanor.  
(Res. 02-129 (part))

**9.12.645 Intimidating a public servant.**

- A. A person is guilty of intimidating a public servant if, by use of a threat, he or she attempts to influence a public servant's vote, opinion, decision, or other official action as a public servant.
- B. For purposes of this section "public servant" shall not include jurors.

C. "Threat" as used in this section means:

1. To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or
2. Threats as defined in Section 9.12.025.

D. Intimidating a public servant is a felony.

(Res. 02-129 (part))

## **Article XVI. Abuse of Office**

### **[9.12.650 Official misconduct.](#)**

#### **9.12.650 Official misconduct.**

A. A public servant is guilty of official misconduct if, with intent to obtain a benefit or to deprive another person of a lawful right or privilege:

1. He or she intentionally commits an unauthorized act under color of law; or
2. He or she intentionally refrains from performing a duty imposed upon him or her by law.

B. Official misconduct is a gross misdemeanor.

(Res. 02-129 (part))

## **Article XVII. Public Disturbance**

### **[9.12.655 Riot.](#)**

### **[9.12.660 Failure to disperse.](#)**

### **[9.12.665 Disorderly conduct.](#)**

### **[9.12.670 False reporting.](#)**

### **[9.12.675 Disturbing the peace.](#)**

#### **9.12.655 Riot.**

A. A person is guilty of the crime of riot if, acting with three or more other persons, he or she knowingly and unlawfully uses or threatens to use force, or in any way participates in the use of such force, against any other person or against property.

B. The crime of riot is:

1. A felony, if the actor is armed with a deadly weapon;
2. A gross misdemeanor in all other cases.

(Res. 02-129 (part))

#### **9.12.660 Failure to disperse.**

A. A person is guilty of failure to disperse if:

1. He or she congregates with a group of three or more other persons and there are acts of conduct within that group which create a substantial risk of causing injury to any person, or substantial harm to property; and
  2. He or she refuses or fails to disperse when ordered to do so by a peace officer or other public servant engaged in enforcing or executing the law.
- B. Failure to disperse is a misdemeanor.  
(Res. 02-129 (part))

**9.12.665 Disorderly conduct.**

- A. A person is guilty of disorderly conduct if he or she:
1. Uses abusive language and thereby intentionally creates a risk of assault; or
  2. Intentionally disrupts any lawful assembly or meeting of persons without lawful authority; or
  3. Intentionally obstructs vehicular or pedestrian traffic without lawful authority.
- B. Disorderly conduct is a misdemeanor.  
(Res. 02-129 (part))

**9.12.670 False reporting.**

- A. A person is guilty of false reporting if, with knowledge that the information reported, conveyed or circulated is false, he or she initiates or circulates a false report or warning of an alleged occurrence or impending occurrence of a fire, explosion, crime, catastrophe, or emergency knowing that such false report is likely to cause evacuation of a building, place of assembly or transportation facility, or to cause public inconvenience or alarm.
- B. False reporting is a gross misdemeanor.  
(Res. 02-129 (part))

**9.12.675 Disturbing the peace.**

- A. A person is guilty of disturbing the peace if he or she, by means of a loud noise or disruptive act, endangers or disrupts the peace, tranquility, health, or welfare of any person or natural wildlife community.
- B. Disturbing the peace is a misdemeanor.  
(Res. 02-129 (part))

**Article XVIII. Rape—Public Indecency—Prostitution—Sex Crimes**

[9.12.680 Definitions.](#)

[9.12.685 Testimony—Evidence—Written motion—Admissibility.](#)

[9.12.690 Defense to prosecution under this code.](#)

[9.12.695 Rape in the first degree.](#)

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[9.12.710 Statutory rape in the first degree.](#)

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[9.12.730 Public indecency.](#)

[9.12.735 Child molestation.](#)

[9.12.740 Prostitution.](#)

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[9.12.750 Promoting prostitution—Definitions.](#)

[9.12.755 Promoting prostitution in the first degree.](#)

[9.12.760 Promoting prostitution in the second degree.](#)

[9.12.765 Permitting prostitution.](#)

[9.12.770 Abusive sexual touching.](#)

#### **9.12.680 Definitions.**

For the purposes of rape, public indecency, prostitution, and sex crimes offenses:

- A. "Consent" means that at the time of the act of sexual intercourse there are actual words or conduct indicating freely given agreement to have sexual intercourse.
- B. "Forcible compulsion" means physical force which overcomes resistance, or a threat, expressed or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that he or she or another person will be kidnapped.
- C. "Married" means one who is legally married to another.
- D. "Mental incapacity" is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance or from some other cause.
- E. "Physically helpless" means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.
- F. "Sexual Intercourse":
  - 1. Has its ordinary meaning and occurs upon any penetration, however slight; and
  - 2. Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes; and
  - 3. Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

(Res. 02-129 (part))

#### **9.12.685 Testimony—Evidence—Written motion—Admissibility.**

- A. In order to convict a person of any rape, public indecency, prostitution, or sex crimes offenses, it shall not be necessary that the testimony of the alleged victim be corroborated.

- B. Evidence of the victim's past sexual behavior, including but not limited to the victim's marital history, divorce history, or general reputation for promiscuity, non-chastity, or sexual mores contrary to community standards is inadmissible on the issue of credibility and is inadmissible to prove the victim's consent except as provided in subsection C of this section, but when the perpetrator and the victim have engaged in sexual intercourse with each other in the past, and when past behavior is material to the issue of consent, evidence concerning the past behavior between the perpetrator and the victim may be admissible on the issue of consent to the offense.
- C. In any prosecution for the crime of rape or for an attempt to commit or an assault with an intent to commit any such crime, evidence of the victim's past sexual behavior, including but not limited to the victim's marital behavior, divorce history, or general reputation for promiscuity, non-chastity, or sexual mores contrary to community standards is not admissible if offered to attack the credibility of the victim and is admissible on the issue of consent only pursuant to the following procedure:
  - 1. A written pretrial motion shall be made by the defendant to the Court and prosecutor stating that the defense has an offer of proof of the evidence of the past sexual behavior of the victim proposed to be presented and its relevancy on the issue of the consent of the victim;
  - 2. The written motion shall be accompanied by an affidavit or affidavits in which the offer of proof shall be stated;
  - 3. If the Court finds that the offer of proof is sufficient, the Court shall order a hearing out of the presence of the jury, if any, and the hearing shall be closed except to the necessary witnesses, the defendant, counsel, and those who have a direct interest in the case or in the work of the Court.
  - 4. At the conclusion of the hearing, if the Court finds that the evidence proposed to be offered by the defendant regarding the past sexual behavior of the victim is relevant to the issue of the victim's consent, is not inadmissible because its probative value is subsequently outweighed by the probability that its admission will create a substantial danger of undue prejudice, and that its exclusion would result in denial of substantial justice to the defendant, the Court shall make an order stating what evidence may be introduced by the defendant, which order may include the nature of the questions to be permitted. The defendant then offers evidence pursuant to the order of the Court.
- D. Nothing in this section shall be construed to prohibit cross-examination of the victim on the issue of past sexual behavior, but the Court may require a hearing pursuant to subsection C of this section concerning such evidence.

(Res. 02-129 (part))

#### **9.12.690 Defense to prosecution under this code.**

- A. In any prosecution under this code in which lack of consent is based solely upon the victim's mental incapacity or upon the victim's being physically helpless, it is a defense which the defendant must prove by a preponderance of the evidence that at the time of the offense the defendant reasonably believed that the victim was not mentally incapacitated and/or physically helpless.
- B. In any prosecution under this code in which the offense or degree of the offense depends on the victim's age, it is no defense that the perpetrator did not know the victim's age, or that the perpetrator believed the victim to be older, as the case may be; provided, that it is a defense which the defendant must prove by a preponderance of the evidence that at the time of the offense the defendant reasonably believed the alleged victim to be older based upon declaration as to age by the alleged victim.

(Res. 02-129 (part))

**9.12.695 Rape in the first degree.**

- A. A person is guilty of rape in the first degree when such person engages in sexual intercourse with another person, where the perpetrator or an accessory:
  - 1. Uses forcible compulsion;
  - 2. Uses or threatens to use a deadly weapon; or
  - 3. Kidnaps the victim; or
  - 4. Inflicts serious physical injury; or
  - 5. Feloniously enters into the building or vehicle where the victim is situated.
- B. Rape in the first degree is a felony. No person convicted of rape in the first degree shall be granted a deferred or suspended sentence except for the purpose of commitment to an inpatient treatment facility.

(Res. 02-129 (part))

**9.12.700 Rape in the second degree.**

- A. A person is guilty of rape in the second degree when, under circumstances not constituting rape in the first degree, the person engages in sexual intercourse with another person not married to the perpetrator when the victim is incapable of consent by reason of being physically helpless or mentally impaired.
- B. Rape in the second degree is a felony.

(Res. 02-129 (part))

**9.12.705 Rape in the third degree.**

- A. A person is guilty of rape in the third degree when under circumstances not constituting rape in the first or second degrees, such person engages in sexual intercourse with another person:
  - 1. Where the victim did not consent as defined in Section 9.12.680 to sexual intercourse with the perpetrator and such lack of consent was clearly expressed by the victim's words or conduct; or
  - 2. Where there is threat of substantial unlawful harm to property rights of the victim.
- B. Rape in the third degree is a felony.

(Res. 02-129 (part))

**9.12.710 Statutory rape in the first degree.**

- A. A person over thirteen (13) years of age is guilty of statutory rape in the first degree when the person engages in sexual intercourse with another person who is less than eleven (11) years old.
- B. Statutory rape in the first degree is a felony.

(Res. 02-129 (part))

**9.12.715 Statutory rape in the second degree.**

- A. A person over sixteen (16) years of age is guilty of statutory rape in the second degree when such person engages in sexual intercourse with another person, not married to the perpetrator, who is eleven (11) years or older but less than fourteen (14) years old.

- B. Statutory rape in the second degree is a felony.

(Res. 02-129 (part))

**9.12.720 Statutory rape in the third degree.**

- A. A person over eighteen (18) years of age is guilty of statutory rape in the third degree when such person engages in sexual intercourse with another person, not married to the perpetrator, who is fourteen (14) years of age or older but less than sixteen (16) years old.

- B. Statutory rape in the third degree is a felony.

(Res. 02-129 (part))

**9.12.725 Reserved.**

(Res. 02-129 (part))

**9.12.730 Public indecency.**

- A. A person is guilty of public indecency if he or she makes any open and obscene exposure of his or her person or the person of another knowing that such conduct is likely to cause reasonable affront or alarm.

- B. Public indecency is a misdemeanor unless such person exposes himself to a person under the age of fourteen (14) years in which case indecency is a gross misdemeanor.

(Res. 02-129 (part))

**9.12.735 Child molestation.**

- A. A person is guilty of child molestation if he or she:

1. Entices or persuades a child under the age of eighteen (18) years to enter a building, vehicle, room, boat, or any other place with intent to commit sexual intercourse, as defined in Section 9.12.680 or sexual touching as defined in Section 9.12.770; or
2. Has possession of a child under the age of eighteen (18) years in any such place with intent to commit sexual intercourse or sexual contact.

- B. Child molestation is a gross misdemeanor unless the offender has previously been convicted of a felony sexual offense or has previously been convicted under this section or a similar law in any jurisdiction, in which case child molestation is a felony. Upon conviction of child molestation, the offender may be required by the Court to undergo medical evaluation and treatment, in addition to or instead of any other sentence imposed by the Court.

(Res. 02-129 (part))

**9.12.740 Prostitution.**

- A. A person is guilty of prostitution if such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee. Fee includes money, property, goods or services, or other things of value.

- B. Prostitution is a misdemeanor.

(Res. 02-129 (part))

**9.12.745 Prostitution—Sex of parties immaterial—No defense.**

In any prosecution for prostitution, the sex of the parties or prospective parties to the sexual conduct engaged in, contemplated, or solicited is immaterial, and it is not a defense that:

- A. Such persons were of the same sex; or
- B. The person who received, agreed to receive, or solicited a fee was a male and the person who paid or agreed or offered to pay such fee was female.

(Res. 02-129 (part))

**9.12.750 Promoting prostitution—Definitions.**

For the purpose of Sections 9.12.755 through 9.12.765:

- A. "Advances prostitution". A person "advances prostitution" if, acting other than as a prostitute or as a customer thereof, he or she causes or aids a person to commit or engage in prostitution, procures or solicits customers for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any other conduct designed to institute, aid, or facilitate an act or enterprise of prostitution.
- B. "Profits from prostitution". A person "profits from prostitution" if, acting other than as a prostitute receiving compensation for personally rendered prostitution services, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he or she participates or is to participate in the proceeds of prostitution activity.

(Res. 02-129 (part))

**9.12.755 Promoting prostitution in the first degree.**

- A. A person is guilty of promoting prostitution in the first degree if he or she knowingly:
  - 1. Advances prostitution by compelling a person by threat or force to engage in prostitution or profits from prostitution which results from such threat or force; or
  - 2. Advances or profits from prostitution of a person less than eighteen (18) years old.
- B. Promoting prostitution in the first degree is a felony.

(Res. 02-129 (part))

**9.12.760 Promoting prostitution in the second degree.**

- A. A person is guilty of promoting prostitution in the second degree if he or she knowingly:
  - 1. Profits from prostitution; or
  - 2. Advances prostitution.
- B. Promoting prostitution in the second degree is a felony.

(Res. 02-129 (part))

**9.12.765 Permitting prostitution.**

- A. A person is guilty of permitting prostitution if, having possession or control of premises which he or she knows are being used for prostitution purposes, he or she fails without lawful excuse to make reasonable effort to halt or abate such use.



- B. Permitting prostitution is a misdemeanor.

(Res. 02-129 (part))

**9.12.770 Abusive sexual touching.**

- A. Any person who knowingly engages in or causes or attempts sexual touching, as defined in this section, with or by another person in any one of the following circumstances commits the crime of abusive sexual touching:
1. By using force against the other person;
  2. By in any way threatening or placing the other person in fear;
  3. When the other person is a child under the age of fourteen (14);
  4. When the other person is unconscious or physically or mentally incapable of declining participation or communicating unwillingness to engage in sexual activity for any reason including physical handicap, mental disease, mental disability, alcohol or drug intoxication;
  5. When the defendant is in a position of trust or authority with respect to the other person, and takes advantage of that position to cause sexual touching; or
  6. When the defendant is related to the victim as an ancestor, descendant, or sibling, aunt, uncle, niece, nephew, or first cousin.
- B. Abusive sexual touching is a felony.
- C. "Sexual touching" means any touching of the sexual or other intimate parts of a person done for the purpose of arousing or gratifying the sexual desire of any person, or for the purpose of abusing, humiliating, harassing, or degrading another person.
- D. "Position of trust or authority" means, but is not limited to, the special authoritative or confidential relationships relating to the provision of education, health care, any kind of counseling, coaching, religious advice, public safety services or other professional services.

(Res. 02-129 (part))

**Article XIX. Reserved** [\[2\]](#)

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FOOTNOTE(S):

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**Editor's note**— Res. No. 12-62, adopted October 11, 2012, repealed Article XIX, §§ 9.12.775—9.12.785, which pertained to registration of sex offenders and kidnapping offenders and derived from Res. No. 07-31 and Res. No. 02-129. Similar provisions can be found in Article XXXVI. [\(Back\)](#)

**Article XX. Reserved** [\[3\]](#)

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FOOTNOTE(S):

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**Editor's note**— Res. No. 09-40, adopted April 23, 2009, repealed Article XX, §§ 9.12.790—9.12.805, which pertained to animals and derived from Res. No. 02-129. ([Back](#))

## **Article XXI. Firearms**

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### [9.12.880 Forfeiture of weapons by the Court.](#)

## **9.12.810 Definitions.**

- A. "Dangerous weapon" means any sand club, metal knuckles, karate stars, spring blade knife, or any knife the blade of which is automatically released by a spring mechanism or other mechanical device, or any knife having a blade which opens, or falls, or is ejected into position by the force of gravity or by an outward, downward or centrifugal movement.
- B. "Firearm" shall be defined as a weapon or device from which a projectile may be fired by an explosive such as gunpowder. Air guns and other guns fired by the release of compressed gas are firearms. Firearm shall also include any explosive, incendiary, or poison gas: (i) bomb; (ii) grenade; (iii) rocket having a propellant charge of more than four ounces; (iv) missile having an explosive or incendiary charge of more than one-quarter ounce; (v) mine; or (vi) similar device.
- C. "Machine gun" shall be defined as any firearm or weapon known as a machine gun, mechanical rifle, submachine gun, and/or any other weapon, mechanism, or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into such weapon, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.
- D. "Shot firearm" or "pistol" as used in this chapter means any firearm with a barrel less than twelve (12) inches in length.

(Res. 02-129 (part))

**9.12.815 Committing crime when armed—Penalties.**

Any person who shall commit or attempt to commit any offense under this title, while armed with or in the possession of any firearm, shall upon conviction, in addition to the penalty provided by statute for the crime committed without use or possession of a firearm, be guilty of a felony. This section shall not apply to offenses committed while in possession of an unloaded hunting rifle secured in a vehicle if the rifle is in no way connected to the commission of the offense.

(Res. 02-129 (part))

**9.12.820 Being armed prima facie evidence of intent.**

In the trial of a person for committing or attempting to commit a crime of violence, the fact that he or she was armed with a firearm and had no license to carry the same shall be prima facie evidence of his or her intention to commit said crime of violence.

(Res. 02-129 (part))

**9.12.825 Certain persons forbidden to possess firearms.**

No person who has been convicted under this code or elsewhere of a crime of violence or of a felony in which a firearm has been used or displayed, shall own a pistol or short firearm or have one in his or her possession or under his or her control. Such person upon being convicted of a violation of this section shall be guilty of a felony.

(Res. 02-129 (part))

**9.12.830 Sale, possession or use of certain weapons.**

A. No person shall:

1. Sell, dispose of, manufacture, or have in possession a dangerous weapon;
2. Use a device for suppressing the noise of any firearm;
3. Carry with intent to conceal a dagger or dangerous weapon; or
4. Carry a concealed pistol without a license from the Squaxin Island Tribe, if required, or the state of Washington.

B. Any violation of this section shall be a gross misdemeanor.

(Res. 02-129 (part))

**9.12.835 Loaded firearms in vehicles.**

A. No person shall carry a loaded firearm in any vehicle without a license from the Squaxin Island Tribe, if required, and the state of Washington.

B. Any violation of this section shall be a misdemeanor.

(Res. 02-129 (part))

**9.12.840 Sale or possession of machine guns, other guns.**

A. No person shall sell, furnish, manufacture, or have in possession any:

1. Machine gun or any part thereof capable of use for assembling or repairing any machine gun;

2. Shotgun having a barrel(s) of less than eighteen (18) inches in length;
  3. Weapon made from a shotgun if such a weapon as modified has an overall length of less than twenty-six (26) inches or a barrel(s) of less than eighteen (18) inches in length;
  4. Rifle having a barrel(s) of less than sixteen (16) inches in length; or
  5. Weapon made from a rifle if such weapon as modified has an overall length of less than twenty-six (26) inches or a barrel(s) of less than sixteen (16) inches in length.
- B. No person shall set a spring gun.
- C. Any violation of this section shall be a felony.
- (Res. 02-129 (part))

**9.12.845 Aiming or discharging firearms.**

- A. No person shall willfully discharge any firearm or airgun or throw any destructive device within a settled community, along or across any public road or highway or any other place where any person might be endangered by it, although no injury results.
- B. No person shall aim a firearm, whether loaded or not, at or toward any person.
- C. Any violation of this section shall be a misdemeanor.
- (Res. 02-129 (part))

**9.12.850 Intimidation by use of certain weapons.**

- A. No person shall carry, exhibit, display or draw any firearm, dagger, sword, knife, or club, or any other weapon apparently capable of producing bodily harm in a manner, under circumstances and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of another.
- B. Violation of this section shall be a gross misdemeanor.
- (Res. 02-129 (part))

**9.12.855 Exceptions to Sections 9.12.845(B) and 9.12.850.**

Sections 9.12.845(B) and 9.12.850 shall not apply to the following:

- A. Any person vested by law with a duty to preserve public safety, maintain public order, or make arrests for offenses, while performing such duty;
- B. Any person acting to protect himself against the use of presently threatened unlawful force by another, or for the purpose of protecting another against the use of such unlawful force by a third person;
- C. Any person making or assisting in making a lawful arrest of a felony; or
- D. Any person engaged in military activities sponsored by the federal government.

(Res. 02-129 (part))

**9.12.860 Possession of firearms by a minor.**

- A. No minor under sixteen (16) years shall have in possession any firearm for hunting, target practice or any other purpose except;

1. While accompanied by or under the immediate charge of his or her parent or guardian or other adult approved for the purpose of this section by the parent or guardian; or
2. While under the supervision of a certified safety instructor at an established gun range or firearm training class.

(Res. 02-129 (part))

**9.12.865 Delivery of pistol to certain persons.**

- A. No person shall deliver a pistol to any person under the age of twenty-one (21) years, or to one who he or she has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.
- B. Any violation of this section is a misdemeanor.

(Res. 02-129 (part))

**9.12.870 Firearms on tribal lands.**

No person shall carry any firearm or other dangerous weapon in or within fifty (50) feet of any building or structure on lands owned or controlled by the Squaxin Island Tribe, with the exception of private residences located on tribal lands; provided that this regulation shall not apply to duly authorized federal, state and local law enforcement officers or to any federal, state or local government employee authorized to carry firearms in the course of their public employment. Any person violating this section shall be subject to a fine of one hundred dollars (\$100.00).

(Res. 02-129 (part))

**9.12.875 Alteration of identifying marks.**

- A. No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any firearm. Possession of any firearm upon which any such mark has been changed, altered, removed, or obliterated shall be prima facie evidence that the possessor changed, altered, removed, or obliterated the same.
- B. Any violation of this section is a misdemeanor.

(Res. 02-129 (part))

**9.12.880 Forfeiture of weapons by the Court.**

The Court may order forfeiture of any weapon possessed or used in violation of this chapter. The Court in its discretion may order the weapon to be sold, used or otherwise disposed of for the benefit of the Squaxin Island Indian Tribe or may order the weapon to be destroyed.

(Res. 02-129 (part))

**Article XXII. Gambling**

[9.12.885 Reference.](#)

### **9.12.885 Reference.**

Gambling in Indian country is and shall be controlled pursuant to the Squaxin Island gaming ordinance.

(Res. 07-31 § 44; Res. 02-129 (part))

### **Article XXIII. Liquor**

#### **9.12.890 Reference.**

#### **9.12.895 Illegal sale, purchase, possession of liquor—Illegal transfer or use of I.D.**

#### **9.12.900 Minor in possession of liquor.**

#### **9.12.905 Minor consuming liquor.**

#### **9.12.910 Opening or consuming liquor in a public place.**

#### **9.12.915 Intoxication in a public place.**

### **9.12.890 Reference.**

In addition to the offenses set forth in this section, activities related to liquor within the jurisdiction of the Squaxin Island Tribe shall be controlled pursuant to the Squaxin Island Liquor Code (Squaxin Island Tribal Code Chapter 6.12).

(Res. 02-129 (part))

### **9.12.895 Illegal sale, purchase, possession of liquor—Illegal transfer or use of I.D.**

#### **A. No person shall:**

1. Sell or offer for sale by the drink or bottle, or keep or possess with intent to sell any liquor, except as authorized by the Squaxin Island Liquor Code;
2. Purchase liquor from any other person other than at a duly authorized tribal liquor store or other business authorized to sell liquor in Indian country;
3. Transfer an identification of age to a minor for the purpose of permitting such minor to obtain liquor; provided, that corroborative testimony of a witness other than a minor shall be a requirement of conviction; or
4. Attempt to purchase liquor through the use of false or altered identification, which falsely purports to show the individual to be over the age of twenty-one (21) years.

#### **B. Any violation of this section shall be a gross misdemeanor.**

(Res. 07-31 § 45; Res. 02-129 (part))

### **9.12.900 Minor in possession of liquor.**

#### **A. No person under twenty-one (21) years of age shall purchase, possess, obtain, or sell any liquor.**

#### **B. Any violation of this section is a misdemeanor.**

(Res. 02-129 (part))

**9.12.905 Minor consuming liquor.**

- A. No person under twenty-one (21) years of age shall consume any liquor.
- B. "Consume" means the act of consuming liquor, the condition of having consumed liquor, and the condition of being under the influence of liquor.
- C. Any violation of this section is a misdemeanor.

(Res. 02-129 (part))

**9.12.910 Opening or consuming liquor in a public place.**

- A. No person shall open the package containing liquor or consume liquor in a public place.
- B. Any violation of this section is a misdemeanor.

(Res. 02-129 (part))

**9.12.915 Intoxication in a public place.**

- A. No person who is intoxicated shall be or remain in any public place.
- B. "Public place" is defined as any place to which the general public has unrestricted access or any property owned by or held in trust for the Squaxin Island Tribe, which includes being in public view, but does not include being inside of private dwellings or buildings.
- C. Any violation of this section is a misdemeanor.

(Res. 02-129 (part))

**Article XXIV. Fishing**

[9.12.920 Reference.](#)

**9.12.920 Reference.**

Fishing activities within the jurisdiction of the Squaxin Island Tribe are and shall be controlled pursuant to the Squaxin Island Natural Resource Management Ordinance (Squaxin Island Tribal Code, Title 7).

(Res. 02-129 (part))

**Article XXV. Libel and Slander**

[9.12.925 Libel, slander—What constitutes.](#)

[9.12.930 Libel, slander—How justified or excused.](#)

[9.12.935 Publication defined.](#)

**9.12.925 Libel, slander—What constitutes.**

- A. Libel. Every malicious publication by writing, printing, picture, effigy, sign, or other means, which shall tend:
1. To expose any living person to hatred, contempt, ridicule or obloquy, or to deprive him or her of the benefit of public confidence or social intercourse; or
  2. To expose the memory of one deceased to hatred, contempt, ridicule or obloquy; or
  3. To injure any person, corporation or association of persons in his or her or their business or occupation.
- B. Slander. Every malicious verbal publication including by radio, television, or electronic broadcasting or in any other manner that transmits the human voice or reproduces the same from records or appliances or other means, which shall tend:
1. To expose any living person to hatred, contempt, ridicule or obloquy, or to deprive him or her of the benefit of public confidence or social intercourse; or
  2. To expose the memory of one deceased to hatred, contempt, ridicule or obloquy; or
  3. To injure any person, corporation or association of persons in his or her or their business or occupation.

(Res. 02-129 (part))

**9.12.930 Libel, slander—How justified or excused.**

Every publication having the tendency or effect mentioned shall be deemed malicious unless justified or excused. Such publication is justified whenever the matter charged as libelous or slanderous charges the commission of a crime, is a true and fair statement, and was published with good motives and for justifiable ends. It is excused when honestly made in belief of its truth and fairness and upon reasonable grounds for such belief, and consists of fair comments upon the conduct of any person in respect of public affairs, made after a fair and impartial investigation.

(Res. 02-129 (part))

**9.12.935 Publication defined.**

Any method by which matter charged as libelous or slanderous may be communicated to another shall be deemed a publication thereof.

(Res. 02-129 (part))

**Article XXVI. Miscellaneous Offenses**

[9.12.940 Littering.](#)

[9.12.945 Maintaining a public nuisance.](#)

[9.12.950 Abandoning refrigeration equipment.](#)

[9.12.955 Telephone abuse.](#)

[9.12.960 Adulteration.](#)

[9.12.962 Placing trash, soap, or other substances in ponds or fountains prohibited.](#)

[9.12.964 Driving in ponds or fountains prohibited.](#)



**9.12.940 Littering.**

- A. What Constitutes. Any person who throws, dumps, places or deposits upon the lands of another or upon any public road, highway, street, or any other area within Indian country, without the consent of the owner, any garbage, debris, junk, carcasses, trash, refuse, or any other similar substance of whatsoever nature shall be deemed guilty of an offense of littering.
- B. Littering is a misdemeanor.  
(Res. 07-31 § 46; Res. 02-129 (part))

**9.12.945 Maintaining a public nuisance.**

- A. A person is guilty of maintaining a public nuisance if he or she maintains or allows his or her personal or real property to be in a state that poses a threat to the health or safety of others.
- B. Maintaining a public nuisance is a misdemeanor.  
(Res. 02-129 (part))

**9.12.950 Abandoning refrigeration equipment.**

- A. A person is guilty of abandoning refrigeration equipment if he or she discards, abandons or leaves in any place accessible to children any refrigerator, icebox, or deep-freeze locker having a capacity of one and one-half cubic feet or more, which is no longer in use and which has not had the door removed or secured to prevent opening or a portion of the latch mechanism removed to prevent latching or locking of the door.
- B. Abandoning refrigeration equipment is a gross misdemeanor.  
(Res. 02-129 (part))

**9.12.955 Telephone abuse.**

- A. A person is guilty of telephone abuse if he or she makes a telephone call with intent to harass, annoy, alarm, insult, intimidate, torment, embarrass, or taunt another person:
  - 1. Without purpose of legitimate communication;
  - 2. Using any lewd, lascivious, profane, indecent, or obscene words or language, or suggesting the commission of any lewd or lascivious act;
  - 3. Anonymously or repeatedly or at an extremely inconvenient hour, whether or not conversation ensues;
  - 4. Threatening to inflict injury on the person or property of the person called or any member of his or her family or household; or
  - 5. If he or she refuses to surrender the use of a party line when the telephone is needed for an emergency.
- B. Telephone abuse is a gross misdemeanor.  
(Res. 02-129 (part))

**9.12.960 Adulteration.**

- A. A person is guilty of adulteration if he or she manufactures, knowingly sells, or offers for sale, or intentionally keeps or serves any food, drug or drink which is adulterated with a harmful substance, or which, because of a defect in its manufacturing process, is harmful when ingested.
- B. Adulteration is a gross misdemeanor.

(Res. 02-129 (part))

**9.12.962 Placing trash, soap, or other substances in ponds or fountains prohibited.**

It is unlawful for any person to place or cause to be placed any foreign substance in any pond or fountain located in a public park, grounds, or other public area. "Foreign substance" includes, but is not limited to, soap, detergent, chemicals of any kind, trash, or refuse of any kind whatsoever. A violation of this section is a misdemeanor.

(Res. 08-87 (part))

**9.12.964 Driving in ponds or fountains prohibited.**

It is unlawful for any person to operate a wheeled vehicle, whether motor-driven or not, in any pond or fountain located in a public park, grounds, or other public area. A violation of this section is a misdemeanor.

(Res. 08-87 (part))

**Article XXVII. Driving a Motor Vehicle**

[9.12.965 Driving while under the influence of intoxicating liquor or drugs or glue.](#)

[9.12.970 Reckless driving.](#)

[9.12.975 Hit and run of unattended car or other property.](#)

[9.12.980 Hit and run of an attended vehicle or other property.](#)

[9.12.985 Operating a motor vehicle while privilege is suspended or revoked.](#)

[9.12.990 Eluding a law enforcement officer.](#)

[9.12.995 Prohibited use of alcoholic beverages in vehicle.](#)

**9.12.965 Driving while under the influence of intoxicating liquor or drugs or glue.**

- A. What Constitutes. A person is guilty of driving while under the influence of intoxicating liquor or any drug or glue if he or she drives a vehicle within Indian country while:
  - 1. He or she has 0.08 grams or more of alcohol per two hundred ten (210) liters of breath as shown by analysis of the person's breath;
  - 2. He or she has 0.08 percent or more weight of alcohol in the person's blood as shown by analysis of the person's blood;
  - 3. He or she is under the influence of or affected by intoxicating liquor or any drug or glue or other mind-altering substance; or

4. He or she is under the combined influence of or affected by intoxicating liquor and any drug or glue or other mind-altering substance.
- B. The fact that any person charged with a violation of this section is or has been entitled to use of such drug under the laws of this Tribe or of any other Tribe or state shall not constitute a defense against any charge of violating this section.
- C. Driving while under the influence is a gross misdemeanor.  
(Res. 07-31 § 47; Res. 02-129 (part))

**9.12.970 Reckless driving.**

- A. What Constitutes. A person who shall drive or operate any motor vehicle in any manner dangerous to the public safety or properties of the people in Indian country shall be deemed guilty of reckless driving.
- B. Reckless driving is a gross misdemeanor.  
(Res. 07-31 § 48; Res. 02-129 (part))

**9.12.975 Hit and run of unattended car or other property.**

- A. What Constitutes. A person is guilty of hit and run of unattended car or other property within Indian country when, as operator of any vehicle which collides with any other vehicle or other property which is unattended, he or she fails to immediately stop and either locate and notify the owner or operator of said vehicle or other property of his or her name and address or leave in a conspicuous place in or on the vehicle or other property a written notice, giving the name and address of the operator and owner of the vehicle striking such vehicle or other property.
- B. Hit and run of unattended car or other property is a gross misdemeanor.  
(Res. 07-31 § 49; Res. 02-129 (part))

**9.12.980 Hit and run of an attended vehicle or other property.**

- A. What Constitutes. A person is guilty of hit and run of an attended vehicle or other property within Indian country when:
  1. As driver of any vehicle involved in an accident resulting in the injury to or death of any person, he or she fails to immediately stop such vehicle at the scene of such accident or as close thereto as possible, without obstructing traffic more than necessary, forthwith return to, and in every event remain at the scene of such accident until he or she has fulfilled requirements of this section.
  2. As driver of any vehicle involved in an accident resulting only in damage to the vehicle which was driven or attended by any person or damage to other property, who fails to immediately stop such vehicle at the scene of such accident or as close thereto as possible, without obstructing traffic more than necessary, and forthwith return to and in any event remain at the scene of such accident until he or she has fulfilled the requirements of this section.
- B. Duty. The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person or damage to other property shall give his or her name, address and vehicle license number and shall exhibit his or her vehicle driver's license to any person struck or injured or the driver or any occupant of, or any person attending, any such vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying of such person to a physician or hospital for medical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person or on his or her behalf. In the event that none of the persons specified are in a condition to receive the

information to which they otherwise would be entitled under this section, and no police officer is present, the driver of any vehicle involved in such accident after fulfilling all other requirements of this section insofar as possible on his or her part to be performed, shall forthwith report such accident to the police authority and submit thereto the information specified in this section.

- C. Hit and run of an attended vehicle or other property is a gross misdemeanor.

(Res. 07-31 § 50; Res. 02-129 (part))

#### **9.12.985 Operating a motor vehicle while privilege is suspended or revoked.**

- A. A person is guilty of operating a motor vehicle while privilege suspended or revoked if he or she operates a motor vehicle within Indian country while the privilege to do so has been suspended or revoked by the Tribal Court or by any other court of competent jurisdiction as part of a penalty imposed for any civil or criminal traffic violation or because the person failed to respond to a notice of civil traffic violation.

- B. Operating a motor vehicle while privilege suspended is a misdemeanor.

(Res. 07-31 § 51; Res. 02-129 (part))

#### **9.12.990 Eluding a law enforcement officer.**

- A. Any driver of any motor vehicle who fails or refuses to immediately bring his or her own vehicle to a stop after being given a visible or audible signal by a law enforcement officer, is guilty of eluding a law enforcement officer.

- B. Eluding a law enforcement officer is a felony.

(Res. 02-129 (part))

#### **9.12.995 Prohibited use of alcoholic beverages in vehicle.**

- A. A person is guilty of prohibited use of alcoholic beverages in a vehicle if:

1. He or she drinks any alcoholic beverage in a motor vehicle when the vehicle is upon a roadway;
2. He or she has an open or unsealed receptacle containing an alcoholic beverage in his or her possession while in a motor vehicle or while the vehicle is upon a roadway; or
3. He or she is the driver of a motor vehicle which is on a roadway and in which an open or unsealed receptacle containing an alcoholic beverage is present, unless the receptacle is kept in the trunk or other area of the vehicle which is not normally accessible to the occupants.

- B. Prohibited use of alcoholic beverages in a vehicle is a misdemeanor.

(Res. 02-129 (part))

### **Article XXVIII. Controlled Substances**

[9.12.1000 Definitions.](#)

[9.12.1005 Substances which are illegal without a valid prescription.](#)

[9.12.1010 Illegal drugs.](#)

[9.12.1015 Practice of sniffing.](#)

[9.12.1020 Distribution of alcohol, marijuana, or drugs to children.](#)

[9.12.1025 Use of drug paraphernalia.](#)

### **9.12.1000 Definitions.**

All terms used in the controlled substances sections shall be given their commonly accepted meaning. If there is a doubt as to the meaning of a term, the Court shall be guided by the definitions of the Uniform Controlled Substances Act (21 USC § 801 et seq.) as it currently exists or is hereafter amended. Nothing in the Controlled Substances sections shall be construed to make illegal an act which is legal under the Uniform Controlled Substances Act. The Uniform Controlled Substances Act as it currently exists or is hereafter amended is hereby incorporated by reference, to be referred to as indicated in this chapter.

(Res. 02-129 (part))

### **9.12.1005 Substances which are illegal without a valid prescription.**

Any substance that contains any quantity of a chemical that falls within the following categories is illegal to possess without a valid prescription. The full list of chemicals contained within these categories can be found in the Uniform Controlled Substances Act. If there is any doubt as to whether a substance is illegal or not, the Court shall be guided by the provisions of the Uniform Controlled Substances Act.

#### **A. Illegal Substances.**

1. Opiates including but not limited to substances commonly known as opium, heroin, morphine, methadone, and codeine;
2. Hallucinogenic substances including but not limited to substances commonly known as MDA, LSD, PCP, mescaline, peyote, and psilocybin;
3. Marijuana;
4. Cocaine in any form including but not limited to the powder and the rock or "crack" form;
5. Depressants including but not limited to methaqualone, diazepam (Valium), secobarbital, and pentobarbital; and
6. Stimulants including but not limited to any form of amphetamine.

The chemical composition of a substance may be proved by any acceptable method of identification, including but not limited to identification by a trained law enforcement officer, field tests, laboratory tests, or trained canine officer.

(Res. 02-129 (part))

### **9.12.1010 Illegal drugs.**

- A. Any person who possesses for personal use or grows or manufactures for personal use any of the substances listed in Section 9.12.1005 is guilty of a gross misdemeanor.
- B. Any person who grows, manufactures, delivers, or possesses with intent to sell, deliver, or manufacture, any of the substances listed in Section 9.12.1005 shall be guilty of a felony. The term "manufacture" shall not apply to growing for personal use.
- C. Any person who creates, delivers, or possesses a counterfeit illegal drug shall be guilty of a felony. A counterfeit illegal drug is a substance which, although not in fact containing any illegal drug, or not in fact containing the drug it purports to contain, was intended to be understood by others to be a substance listed in Section 9.12.1005.

- D. Any person who offers, arranges, or negotiates for the delivery of an illegal drug listed in Section 9.12.1005 and then delivers any other substance in lieu of an illegal drug listed in Section 9.12.1005 shall be guilty of a felony.

(Res. 02-129 (part))

#### **9.12.1015 Practice of sniffing.**

- A. A person is guilty of the practice of sniffing if he or she sniffs or inhales gasoline, glue or other like substance determined by the Court to be harmful to the physical and mental health of a user.
- B. The practice of sniffing is a misdemeanor.

(Res. 02-129 (part))

#### **9.12.1020 Distribution of alcohol, marijuana, or drugs to children.**

- A. A person is guilty of distribution of alcohol, marijuana or drugs to children if he or she sells, barter or gives to a child under the age of twenty-one (21) years any alcoholic beverage, marijuana, narcotic drugs, or any controlled substance, or if he or she allows a child under the age of twenty-one (21) years to use such substance on his or her property.
- B. Distribution of alcohol, marijuana or drugs to children is a gross misdemeanor.

(Res. 02-129 (part))

#### **9.12.1025 Use of drug paraphernalia.**

- A. A person is guilty of use of drug paraphernalia if he or she uses drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.
- B. RCW 69.50.102 as presented and enacted and as may be subsequently amended, shall be referred to by the Court as guidance on how to define "drug paraphernalia." Health professionals may lawfully distribute "drug paraphernalia" for public and private health purposes.

(Res. 02-129 (part))

### **Article XXIX. Contributing to the Delinquency of a Minor**

#### **[9.12.1030 Contributing to the delinquency of a minor.](#)**

#### **9.12.1030 Contributing to the delinquency of a minor.**

- A. In a case where a child is a youth-in-need-of-care or a youth offender under the Squaxin Island Youth Code (Squaxin Island Tribal Code, Title 10), the parent or legal guardian, or person having custody of the child, or any other person having custody of the child, or any other person who, by an act or omission, encourages, causes, or contributes to the child's dependency or delinquency shall be guilty of a gross misdemeanor.
- B. The Court may suspend sentence for a violation of the provisions of this section and impose conditions as to conduct of any person so convicted and make suspension depend upon fulfillment by that person of the conditions. In case of a breach of any of the conditions the Court may impose sentence as though there had been no suspension.

(Res. 02-129 (part))

## **Article XXX. Domestic Violence Prevention**

### [9.12.1035 Definitions.](#)

### [9.12.1040 Commencement of action—Jurisdiction—Venue.](#)

### [9.12.1045 Petition for an order for protection—Availability of forms and instructional brochures—Filing fee, when required—Bond not required.](#)

### [9.12.1050 Hearing—Service—Time.](#)

### [9.12.1055 Relief—Realignment of designation of parties.](#)

### [9.12.1060 Ex parte temporary order for protection.](#)

### [9.12.1065 Issuance of order—Assistance of peace officer—Designation of appropriate law enforcement agency.](#)

### [9.12.1070 Order—Service—Fees.](#)

### [9.12.1075 Order—Transmittal to law enforcement agency—Record in law enforcement information system enforceability.](#)

### [9.12.1080 Violation of order.](#)

### [9.12.1085 Peace officers—Immunity.](#)

### [9.12.1090 Title to real estate—Effect.](#)

### [9.12.1095 Proceedings additional.](#)

### [9.12.1100 Police arrest authority.](#)

## **9.12.1035 Definitions.**

For the purpose of domestic violence prevention sections:

A. "Domestic violence" means:

1. Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; or
2. Sexual assault of one family or household member by another.

B. "Family or household members" means spouses, former spouses, adult persons related by blood or marriage, persons who are presently residing together, or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

C. "Judicial day" does not include Saturdays, Sundays, or legal holidays.

(Res. 02-129 (part))

## **9.12.1040 Commencement of action—Jurisdiction—Venue.**

Any person may seek relief under this chapter by filing a petition with the Tribal Court alleging that the person has been the victim of domestic violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of a minor family or household member.

(Res. 02-129 (part))

**9.12.1045 Petition for an order for protection—Availability of forms and instructional brochures—Filing fee, when required—Bond not required.**

There shall exist an action known as a petition for an order for protection in cases of domestic violence.

- A. A petition for an order for protection shall allege the existence of domestic violence, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.
- B. A petition for an order for protection may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties.
- C. All court clerk's offices shall make available simplified forms and instructional brochures.

Any assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.

(Res. 02-129 (part))

**9.12.1050 Hearing—Service—Time.**

Upon receipt of the petition, the Court shall order a hearing, which will be held not later than twenty (20) days from the date of the order. Personal service shall be made upon the respondent not less than seven court days prior to the hearing. If timely service cannot be made, the Court may set a new hearing date.

(Res. 02-129 (part))

**9.12.1055 Relief—Realignment of designation of parties.**

- A. Upon notice and after hearing, the Court may provide relief as follows:
  - 1. Restrain a party from committing acts of domestic violence;
  - 2. Exclude the respondent from the dwelling which parties share or from the residence of the petitioner;
  - 3. Order the respondent to participate in treatment or counseling services;
  - 4. Order other relief as it deems necessary for the protection of a family or household member, including orders or directives to a peace officer;
  - 5. Require the respondent to pay the filing fee and court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee. If the petitioner has been granted leave to proceed in a forma pauperis, the Court may require the respondent to pay the filing fee and costs, including service fees, to the entity incurring the expense;
- B. The Court shall make residential provision with regard to minor children of the parties.
- C. Any relief granted by the order for protection, other than a judgment for costs, shall be for a fixed period not to exceed one year.
- D. In providing relief under this section the Court may realign the designation of the parties as "petitioner" and "respondent" where the Court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence.

(Res. 02-129 (part))



**9.12.1060 Ex parte temporary order for protection.**

- A. Where an applicant under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the Court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the Court deems proper, including an order:
  - 1. Restraining any party from committing acts of domestic violence;
  - 2. Excluding any party from the dwelling shared or from the residence of the other until further order of the Court; and
  - 3. Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the Court.
- B. Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.
- C. The Court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.
- D. An ex parte temporary order for protection shall be effective for a fixed period not to exceed thirty (30) days, but may be reissued. A full hearing, as provided in this chapter, shall be set for not later than thirty (30) days from the issuance of the temporary order. The respondent shall be served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

(Res. 02-129 (part))

**9.12.1065 Issuance of order—Assistance of peace officer—Designation of appropriate law enforcement agency.**

When an order is issued under this chapter upon request of the petitioner, the Court may order a peace officer to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in the execution of the order of protection. Orders issued under this chapter shall include a designation of the appropriate law enforcement agency to execute, serve, or enforce the order.

(Res. 02-129 (part))

**9.12.1070 Order—Service—Fees.**

- A. An order issued under these domestic violence prevention sections shall be personally served upon the respondent, except as provided in subsection F of this section.
- B. The chief of police or his or her designee shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party.
- C. If service by a peace officer is to be used, the clerk of the Court shall have a copy of any order issued under these domestic violence prevention sections forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under these domestic violence prevention sections shall take precedence over the service of other documents unless they are of a similar emergency nature.
- D. If the peace officer cannot complete service upon the respondent within ten (10) days, the peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.
- E. Returns of service under these domestic violence prevention sections shall be made in accordance with the applicable Court rules.

- F. If an order entered by the Court recites that the respondent appeared in person before the Court, the necessity for further service is waived and proof of service is waived and proof of service of that order is not necessary.

(Res. 07-31 § 52; Res. 02-129 (part))

**9.12.1075 Order—Transmittal to law enforcement agency—Record in law enforcement information system enforceability.**

A copy of an order for protection granted under this chapter shall be forwarded by the clerk of the Court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in Washington State used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(Res. 02-129 (part))

**9.12.1080 Violation of order.**

- A. Whenever an order for protection is granted under this chapter and the respondent or person to be restrained knows of the order, a violation of the restraint provisions or of a provisional excluding the person from a residence is a misdemeanor.
- B. A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order for protection issued under this chapter that restrains the person or excludes the person from a residence, if the person restrained knows of the order.
- C. A violation of an order for protection shall also constitute contempt of court, and is subject to the penalties prescribed by law.
- D. Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent had violated an order for protection granted under this chapter, the Court may issue an order to the respondent, requiring the respondent to appear and show cause within twenty (20) days why the respondent should not be found in contempt of court and punished accordingly.

(Res. 02-129 (part))

**9.12.1085 Peace officers—Immunity.**

No peace officer may be held criminally or civilly liable for making an arrest under this chapter if the police officer acts in good faith and without malice.

(Res. 02-129 (part))

**9.12.1090 Title to real estate—Effect.**

Nothing in this chapter may affect the title to real estate; provided, that a judgment for costs or fees awarded under this chapter shall constitute a lien on real estate.

(Res. 02-129 (part))

**9.12.1095 Proceedings additional.**

Any proceedings under this act are in addition to other civil or criminal remedies.

(Res. 02-129 (part))

**9.12.1100 Police arrest authority.**

- A. Felonies. Officers shall arrest, without benefit of a warrant, based on probable cause for assaults and threats involving physical action in domestic cases and having occurred within four hours.
- B. Misdemeanors. Officers shall arrest, without benefit of a warrant, based on probable cause for assaults and threats involving physical action in domestic cases and having occurred within four hours.
- C. Court Orders. Officers shall arrest, without benefit of a warrant, based on probable cause that a court order has been violated in a domestic incident.
- D. Warrants. If, when officers arrive on the scene the offender has left the area or four hours have elapsed, and probable cause exists that a domestic violence crime has been committed, the officer will obtain an arrest warrant.

(Res. 02-129 (part))

**Article XXXI. Seizure and Forfeiture of Property Used in Controlled Substance Violations**

[9.12.1105 Purpose.](#)

[9.12.1110 Jurisdiction.](#)

[9.12.1115 Property subject to seizure and forfeiture.](#)

[9.12.1120 Police officer to seize property.](#)

[9.12.1125 Police officer to file notice of seizure.](#)

[9.12.1130 Answer to notice.](#)

[9.12.1135 Procedure for hearing.](#)

[9.12.1140 Burden of proof—Liabilities.](#)

[9.12.1145 Disposition of forfeited property.](#)

[9.12.1150 Reserved.](#)

[9.12.1155 Reserved.](#)

[9.12.1160 Reserved.](#)

[9.12.1165 Reserved.](#)

[9.12.1170 Reserved.](#)

[9.12.1175 Reserved.](#)

[9.12.1180 Reserved.](#)

[9.12.1185 Reserved.](#)

[9.12.1190 Reserved.](#)

[9.12.1195 Reserved.](#)

#### **9.12.1105 Purpose.**

The purpose of this chapter is to provide for civil remedial forfeiture of all property used or acquired in controlled substance violations. The remedial measures of this chapter are civil in nature and are designed and intended to encourage compliance with controlled substance regulations and to compensate the Squaxin Island Tribe for enforcement costs and damage to the peace, security and welfare of the Tribe. Said measures are not designed or intended to punish persons for breach of controlled substance regulations since no property right exists in property subject to seizure and forfeiture under this chapter.

(Res. 02-129 (part))

#### **9.12.1110 Jurisdiction.**

The Squaxin Island Tribal Court shall have exclusive jurisdiction to hear matters under this chapter. Any Tribal law enforcement officer may enforce the provisions of this chapter.

(Res. 02-129 (part))

#### **9.12.1115 Property subject to seizure and forfeiture.**

A. The following property is subject to seizure and forfeiture and no property right exists in it:

1. All controlled substances that have been manufactured, grown, distributed, dispensed, acquired or possessed in violation of this code or other controlled substance regulation, and all hazardous chemicals used or intended to be used in the manufacture of controlled substances;
2. All raw materials, plants, products, and equipment of any kind that is used, or intended for use, in manufacturing, growing, producing, compounded, processing, delivering, importing, or exporting any controlled substance in violation of this code or other controlled substance regulation;
3. All property that is used, or intended for use, as a container for property described in subsections (1) or (2) above;
4. All books, records, and research products and materials, including formulas, microfilm, tapes and other data that are used, or intended for use, in violation of the controlled substances provisions of this code or other controlled substance regulation;
5. All conveyances, including vehicles, vessels, or aircraft that are used, or intended for use, in any manner to transport or facilitate the manufacture, sale, delivery or receipt of property described in subsections (1), (2) or (3) above, or in which property described in those paragraphs is deposited, concealed, kept, possessed, or used by an occupant; and
6. All monies, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this code or other controlled substance regulation, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of the controlled substances provisions of this code or other controlled substances regulation.

However, all property seized under subsection (5) or (6) above which is encumbered by a bona fide security interest shall be subject to the interest of the secured party if the secured party establishes by a preponderance of the evidence that he or she neither had knowledge of nor consented to the act or omission.

(Res. 02-129 (part))

**9.12.1120 Police officer to seize property.**

- A. Property subject to forfeiture under this chapter may be seized by any Tribal law enforcement officer upon process issued by any court having jurisdiction over the property. Seizure of property without process may be made if:
1. The seizure is incident to an arrest or search under a search warrant or during a routine administrative inspection;
  2. The property subject to seizure has been the subject of a prior judgment in favor of the Tribe in a criminal injunction or forfeiture proceeding based upon this chapter, the controlled substances provisions of this code, or other controlled substances regulation;
  3. A law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or
  4. A law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of the controlled substances provisions of this code or other controlled substances regulation.
- B. All property seized under this section shall immediately be delivered to the Tribal Police Chief to be held as evidence until a final forfeiture is declared or a release ordered.

(Res. 02-129 (part))

**9.12.1125 Police officer to file notice of seizure.**

- A. A law enforcement officer who seizes property under this chapter shall file notice of seizure and intention to institute forfeiture proceedings with the clerk of the Tribal Court.
1. The clerk shall serve notice thereof on all owners of any vehicle, vessel, or aircraft seized within fifteen (15) days following the seizure, by one of the following methods:
    - a. Upon an owner, or secured party, whose right, title or interest is of record in the division of motor vehicles or department of licensing of the state in which a conveyance is licensed, by mailing a copy of the notice by certified mail with return receipt requested to the address on the records of the division of motor vehicles or department of licensing of said state.
    - b. Upon an owner or secured party whose name and address are known, by mailing a copy of the notice by certified mail with return receipt requested to his or her last known address.
    - c. Upon an owner or secured party, whose address is unknown but who is believed to have an interest in the property, by publication in one issue of a newspaper of general circulation in Mason County, state of Washington.
  2. The clerk shall serve notice thereof on all owners of any property other than any vehicle, vessel, or aircraft seized within fifteen (15) days following the seizure, by publication in one issue of a newspaper of general circulation in Mason County, state of Washington and, upon an owner or secured party whose name and address are known, by mailing a copy of the notice by certified mail with return receipt requested to his or her last known address.

(Res. 02-129 (part))

**9.12.1130 Answer to notice.**

Within thirty (30) days after the mailing or publication of a notice of seizure as provided under Section 9.12.1125, the owner or secured party of the seized property may file a verified answer to the allegation of the use of the property contained in the notice of seizure and of the intended forfeiture proceedings.

(Res. 02-129 (part))

**9.12.1135 Procedure for hearing.**

- A. If a verified answer to the notice is not filed within thirty (30) days after the mailing or publication thereof, the Tribal Court shall hear evidence upon the charge of unlawful use of the property, and upon motion for a default judgment, shall order the property forfeited to the Squaxin Island Tribe.
- B. If a verified answer is filed, the forfeiture proceedings shall be set for a hearing on a day not more than thirty (30) days after the answer is filed, and the proceedings shall have priority over other civil cases. The property owner or claimant may voluntarily waive this right to a speedy trial. Notice of the hearing shall be given in the same manner provided for service of the notice of seizure as provided in Section 9.12.1125.
- C. At the hearing, any owner or secured party who has filed a verified answer may establish by a preponderance of the evidence that the act or omission was not committed or was committed without the party's knowledge or consent.

(Res. 02-129 (part))

**9.12.1140 Burden of proof—Liabilities.**

- A. It is not necessary for the Tribe to negate any exemption or exception in this chapter in any complaint, answer, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this chapter. The burden of proof of any exception is upon the person claiming it and must be established by a preponderance of the evidence.
- B. In the absence of evidence that a person is the lawful owner or has a secured interest in the property, the person is presumed not to be the owner or a secured party. The burden of proof is upon the person to rebut the presumption by a preponderance of the evidence.
- C. No liability is imposed by this chapter upon the Tribe or any authorized law enforcement officer while engaged in the lawful performance of his or her duties.

(Res. 02-129 (part))

**9.12.1145 Disposition of forfeited property.**

- A. All controlled substances in violation of this code or other controlled substance violation are contraband and shall be seized and summarily forfeited to the Tribe. Such contraband shall be properly destroyed after it is no longer needed as evidence for an investigation or prosecution of a case or an appeal from conviction.
- B. When property is forfeited under this chapter, the Tribal Police Department may dispose of the property as follows:
  - 1. If the court determines that the interest of a secured party, without whose knowledge or consent the property was used in violation of the controlled substances provisions of this code or other controlled substances regulation, in property under Section 9.12.1110 (5) or (6) is bona fide, the Court shall order the encumbered property released to the secured party if the amount due the secured party is equal to or in excess of the value of the property as of the date of seizure, it being the purpose of this chapter to forfeit only the interest of the party charged.
  - 2. If the amount due a bona fide secured party is less than the value of the property, the Tribal Police Chief may either satisfy the bona fide security interest and retain the property or sell the property at public auction after due and proper notice has been given of such sale.
  - 3. If no such secured party exists, the Tribal Police Department may retain the property for official Tribal use. If such property is not to be retained, the Tribal Police Chief shall sell that which is not required to be destroyed by law or harmful to the public as provided in subsection (2) above.

- C. When property is forfeited, the Tribal Police Department shall keep a record indicating the identity of the prior owner, if known, a description of the property, the disposition of the property, the value of the property at the time of seizure, and the amount of proceeds realized from disposition of the property. A record of forfeited property shall be forwarded to the Finance Department each fiscal year. The Tribal Police Department shall retain records of forfeited property for at least seven years.
- D. By October 31 of each year, the Tribal Police Department shall remit to the Court fund an amount equal to twenty-five (25) percent of the net proceeds of any property forfeited and sold during the preceding fiscal year.
  - 1. The net proceeds of property forfeited and sold is the value of the forfeitable interest in the property after deducting the cost of sale, including reasonable fees or commissions paid to selling agents or appraisers.
  - 2. The value of the sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index. The Tribal Police Chief may, but need not, use an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.
- E. Forfeited property and net proceeds not required to be paid to the Court fund shall be retained by the Tribal Police Department for any official use related to controlled substance enforcement, prevention or education. Upon proper application, such forfeited property may be sold to any Tribal Department for official Tribal use.

(Res. 02-129 (part))

**9.12.1150 Reserved.**

(Res. 02-129 (part))

**9.12.1155 Reserved.**

(Res. 02-129 (part))

**9.12.1160 Reserved.**

(Res. 02-129 (part))

**9.12.1165 Reserved.**

(Res. 02-129 (part))

**9.12.1170 Reserved.**

(Res. 02-129 (part))

**9.12.1175 Reserved.**

(Res. 02-129 (part))

**9.12.1180 Reserved.**

(Res. 02-129 (part))

**9.12.1185 Reserved.**

(Res. 02-129 (part))

**9.12.1190 Reserved.**

(Res. 02-129 (part))

**9.12.1195 Reserved.**

(Res. 02-129 (part))

**Article XXXII. Deferred Prosecution**

[9.12.1200 Deferred prosecution—Minor first offenses.](#)

[9.12.1205 Deferred prosecution—Offenses caused by alcohol or drug abuse.](#)

**9.12.1200 Deferred prosecution—Minor first offenses.**

- A. The Tribal Prosecutor may enter a deferred prosecution agreement with a person charged for the first time with a misdemeanor, gross misdemeanor or fishing violation where no violence occurred in connection with the offense.
- B. The agreement shall be signed by the Tribal Court Judge and it shall set forth the following conditions:
  - 1. The defendant shall refrain from engaging in any unlawful activity for a specified period of time up to one year;
  - 2. Delay in bringing the case to trial shall not be grounds for dismissal;
  - 3. The prosecutor shall defer prosecution of the defendant during the specified time if the defendant is not charged with any criminal or fisheries offenses during that time; and
  - 4. The Court shall dismiss with prejudice the charges against the defendant at the end of the specified period of time if the defendant has not been charged with any crime or fisheries offense during that time.
- C. If the defendant is charged with any crime or fisheries offense during the specified period of time, the prosecutor may terminate the deferred prosecution agreement and the defendant shall be arraigned on the original charges.

(Res. 02-129 (part))

**9.12.1205 Deferred prosecution—Offenses caused by alcohol or drug abuse.**

- A. A person charged with a misdemeanor or gross misdemeanor may request the Tribal Court to be considered for a deferred prosecution program under this subsection. The request shall be made at arraignment or before trial.



- B. The person's request must state the following:
1. The offense charged is the result of or caused by alcohol problems or drug problems for which the person is in need of treatment;
  2. Without treatment, there is a great probability of future reoccurrence of similar misconduct; and
  3. A case history of the person's alcohol or drug problems.
- C. Upon consideration of the request, the Court may continue the arraignment and refer the person to the Tribe's alcoholism or drug abuse counselor for a diagnostic investigation and evaluation. The counselor shall conduct an investigation and examination and shall make a written report to the Court with a copy to the defendant including the following findings:
1. Whether the person suffers from the problem alleged;
  2. Whether there is a probability that similar misconduct will reoccur in the future if the problem is not treated;
  3. Whether extensive treatment is required;
  4. Whether effective treatment for the person's problem is available; and
  5. If treatment is recommended, a treatment plan specifying the location, nature, length, treatment time schedule and cost of the plan.
- D. If the report recommends treatment, the Court shall examine the plan. If it approves the plan, and the defendant agrees to comply with the terms and conditions of the plan and agrees to pay or arrange for the payment of the cost thereof, the Court shall order that the defendant be accepted for deferred prosecution. If treatment is not recommended or not approved or the defendant declines to accept the treatment plan, the defendant shall be arraigned on the charges.
- E. Evidence pertaining to or resulting from the defendant's request and/or the investigation or report is inadmissible in any trial on the charges but may be used after conviction in determining a sentence.
- F. If a defendant in a deferred prosecution program fails or neglects to fulfill any term or condition of the treatment plan, the facility or agency administering the treatment shall immediately report the breach to the Court. Upon receiving such a report, the Court shall hold a hearing to determine whether the defendant should be removed from the deferred prosecution program. If removed from deferred prosecution, the defendant shall be arraigned on the original charge.
- G. If, during his or her participation in a deferred prosecution program, a defendant is convicted in any court of an offense similar to the one for which he or she is in a deferred prosecution program, the Tribal Court shall remove the defendant from deferred prosecution and he or she shall be arraigned on the original charge.
- H. Two years from the date of the Court's approval of deferred prosecution on an individual defendant, if the defendant has completed all requirements of the deferred prosecution program, the charges against the defendant shall be dismissed with prejudice and the records relating to the defendant shall be destroyed.
- I. Delay in bringing a case to trial caused by a defendant requesting deferred prosecution shall not be grounds for dismissal.

(Res. 02-129 (part))

### **Article XXXIII. Sentencing**

[9.12.1210 Authorized sentences of offenders.](#)

[9.12.1215 Restitution.](#)

**9.12.1210 Authorized sentences of offenders.**

- A. Felony. Every person convicted of a felony shall be punished by imprisonment for a maximum term fixed by the Court of not more than one year, or a fine in an amount fixed by the Court of not more than five thousand dollars (\$5,000.00), or by both such imprisonment and fine.
- B. Gross Misdemeanor. Every person convicted of a gross misdemeanor shall be punished by imprisonment for a maximum term fixed by the Court of not more than nine months, or by a fine in an amount fixed by the Court of not more than five thousand dollars (\$5,000.00), or by both such imprisonment and fine.
- C. Misdemeanor. Every person convicted of a misdemeanor shall be punished by imprisonment for a maximum term fixed by the Court of not more than six months, or by a fine in an amount fixed by the Court of not more than two thousand five hundred dollars (\$2,500.00), or by both such imprisonment and fine.

(Res. 02-129 (part))

**9.12.1215 Restitution.**

If a person has gained money or property, or caused a victim to lose money or property through the commission of a crime, upon conviction thereof the Court, in lieu of imposing the fine authorized for the offense, may order the defendant to pay an amount, fixed by the Court, not to exceed double the amount of the defendant's gain or victim's loss to provide restitution to the victim. In the event that restitution is ordered, a separate hearing must be held to determine the amount of the defendant's gain or victim's loss.

(Res. 02-129 (part))

**Article XXXIV. Juveniles**

[9.12.1220 Age of capacity.](#)

[9.12.1225 Persons older than the age of six.](#)

[9.12.1230 Suspending sentences.](#)

[9.12.1235 Sentencing for offenders under the age of eighteen.](#)

[9.12.1240 Parents may be held responsible for the acts of their children.](#)

**9.12.1220 Age of capacity.**

Persons under the age of six are presumed not to have the capacity to attain any mental condition required for conviction of a crime, including intent, negligence, willfulness, etc.

(Res. 02-129 (part))

**9.12.1225 Persons older than the age of six.**

All persons age six or older shall be subject to the jurisdiction of this code.

(Res. 02-129 (part))

**9.12.1230 Suspending sentences.**

- A. Authorization. Whenever any person shall be convicted of any crime, the Court may in its discretion, at the time of imposing sentence upon such person, direct that such sentence, or any part of it, be stayed and suspended until otherwise ordered by the Court, and that the sentenced person be placed under the charge of the Tribal Court Clerk during the term of such suspension, upon such terms as the Court may determine; provided, that as a condition to suspension of sentence, the Court may require the convicted person to make such monetary payments, on such terms as the Court deems appropriate under the circumstances, as are necessary to meet the expenses of the prosecution or terms of suspension.
- B. Use Encouraged. The Court is encouraged to investigate the use of suspended sentences in all cases, including the use of community service work, alcohol or drug treatment facilities, and all other available alternates to imposition of fines and/or imprisonment.
- C. Failure to Comply. Upon failure of an offender to comply with the terms of a suspension of his or her sentence, the Court Clerk is required to bring such failure to the attention of the Court. After a hearing to investigate the allegations, at which the offender has the rights available to him or her that he or she had at trial, the Court may: revoke the suspension and order all orders of fines and/or imprisonment immediately imposed; continue the suspension in effect unchanged; or continue the suspension in effect under new terms.

(Res. 02-129 (part))

**9.12.1235 Sentencing for offenders under the age of eighteen.**

All persons subject to this code who are under the age of eighteen (18) shall be tried as all other offenders. At sentencing, however, the Court is required to investigate alternates to fine and/or imprisonment, to include counseling, community service, treatment, and other appropriate alternates. If the Court chooses to employ a fine and/or imprisonment as punishment, it may do so as a part or the whole of the offender's sentence. However, the Court must justify in a written opinion its reasons for so doing.

(Res. 02-129 (part))

**9.12.1240 Parents may be held responsible for the acts of their children.**

Parents, guardians, and custodians of persons under the age of eighteen (18) may be required by the Court to be present at hearings in which the child is a defendant. The parents, guardians, and custodians may be required by the Court to participate with the child in any sentence imposed upon the child. The Court's contempt powers shall extend to the parents, guardians, and custodians under this section.

(Res. 02-129 (part))

**Article XXXV. Construction, Effective Date, Amendments**

[9.12.1245 Construction.](#)

[9.12.1250 Effective date.](#)

[9.12.1255 Amendments.](#)

**9.12.1245 Construction.**

Construction of sections of this code shall not be based upon construction of the corresponding Washington State Criminal Law or the criminal law of any other jurisdiction, including decisions from all courts interpreting such sections, unless otherwise expressly stated.

(Res. 02-129 (part))

**9.12.1250 Effective date.**

The effective date of this code shall be December 12, 2002. This code shall continue in effect until the Tribal Council of the Squaxin Island Tribe supersedes it.

(Res. 02-129 (part))

**9.12.1255 Amendments.**

Amendments to this code may be made by resolution of the Squaxin Island Tribal Council.

(Res. 02-129 (part))

**Article XXXVI. Tribal Sex Offender Registration and Exclusion**

**Division 1. General Matters**

[9.12.1280 Title.](#)

[9.12.1285 Purpose.](#)

[9.12.1290 Creation of registries.](#)

**9.12.1280 Title.**

This title shall be known as the Squaxin Island Tribal Sex Offender Registration and Exclusion Code.

(Res. No. 12-62, 10-11-12)

**9.12.1285 Purpose.**

The intent of this chapter is to implement the federal Sex Offender Registration and Notification Act (SORNA) (Title I of Public Law 109-248) and shall be interpreted liberally to comply with the terms and conditions of SORNA as presently written or hereafter amended.

(Res. No. 12-62, 10-11-12)

**9.12.1290 Creation of registries.**

- A. Sex Offender Registry. There is hereby established a sex offender registry, which the Squaxin Island Police Department, or its agent, shall maintain and operate pursuant to the provisions of this article, as amended.
- B. Public Sex Offender Registry Website. There is hereby established a public sex offender registry website, which the Squaxin Island Public Safety and Justice Department, or its agent, shall maintain and operate pursuant to the provisions of this article, as amended.

(Res. No. 12-62, 10-11-12)

## **Division 2. Definitions and Covered Offenses**

### [9.12.1300 Definitions.](#)

### [9.12.1305 Covered offenses.](#)

#### **9.12.1300 Definitions.**

The definitions below apply to this article only.

"Convicted" means an adult sex offender is "convicted" for the purposes of this article if the sex offender has been subjected to penal consequences based on the conviction, however the conviction may be styled.

"Employee" means the term "employee", as used in this article includes, but is not limited to, an individual who is self-employed or works for any other entity, regardless of compensation. Volunteers of a tribal agency or organization are included within the definition of employee for registration purposes.

"Foreign convictions" means a foreign conviction is one obtained outside of the United States.

"Immediate" and "immediately" mean within three business days.

"Imprisonment" refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state "prison" as well as in a federal, military, foreign, BIA, private or contract facility, or a local or tribal "jail". Persons under "house arrest" following conviction of a covered sex offense are required to register pursuant to the provisions of this article during their period of "house arrest".

"Jurisdiction" as used in this code refers to the fifty (50) states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and any Indian tribe.

"Juvenile offender" for purposes of this code includes any person who is either:

1. Prosecuted and found guilty as an adult for a sex offense; or
2. Is adjudicated delinquent as a juvenile for a sex offense, but only if the offender is fourteen (14) years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in either (a) or (b) of Section 2241 of Title 18, United States Code), or was an attempt or conspiracy to commit such an offense.

"Minor" means an individual who has not attained the age of eighteen (18) years.

"NSOPW" means the National Sex Offender Public Website, the public website maintained by the Attorney General of the United States pursuant to 42 U.S.C. Section 16920.

"NSOR" means the National Sex Offender Registry", the national database maintained by the Attorney General of the United States pursuant to 42 U.S.C. Section 16919.

"Resides" or "reside" means, the location of an individual's home or other place where the individual habitually lives or sleeps and also includes vacation homes, hunting cabins and other temporary residences that the individual visits on a regular basis.

"Sex offender" a person convicted of a sex offense.

"Sex OFFENDER Registry" means the registry of sex offenders and notification program, maintained by the Squaxin Island Police Department or its agent.

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"Sex Offender Tier 1" a sex offender that has been convicted of a Tier 1 sex offense as defined in Section 9.12.1310 of this article.

"Sex Offender Tier 2" a sex offender that has been either convicted of a Tier 2 sex offense as defined in Section 9.12.1315 of this article, or who is subject to the recidivist provisions of Section 9.12.1315(A).

"Sex Offender Tier 3" a "sex offender" that has been either convicted of a Tier 3 sex offense as defined in Section 9.12.1320 of this article, or who is subject to the recidivist provisions of Section 9.12.1320(A).

"Sex Offense" as used in this code includes those offenses contained in 42 U.S.C. Section 16911(5) and those offenses enumerated in Section 9.12.1305 of this article or any other covered offense under tribal law.

An offense involving consensual sexual conduct is not a sex offense for the purposes of this chapter if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least thirteen (13) years old and the offender was not more than four years older than the victim.

"Sexual act" means:

1. Contact between the penis and the vulva or the penis and the anus, and for purposes of this definition, contact involving the penis occurs upon penetration, however slight;
2. Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
3. The penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
4. The intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of eighteen (18) years, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

"Sexual contact" means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desires of another person.

"SMART" means the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, which was established within the United States Department of Justice under the general authority of the Attorney General of the United States pursuant to 42 U.S.C. Section 16945.

"SORNA" means the Sex Offender Registration and Notification Act (Title I of the Adam Walsh Child Protection and Safety Act of 2006 P.L. 109-248), 42 U.S.C. Section 16911 et seq., as amended.

"Student" means a person who enrolls in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education.

(Res. No. 12-62, 10-11-12)

### **9.12.1305 Covered offenses.**

Individuals who reside within the exterior boundaries of the reservation or otherwise reside on property owned by the tribe in fee or trust regardless of location, are employed within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location, or who attend school within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location, that have been convicted of any of the following sex offenses, or convicted of an attempt or conspiracy to commit any of the following sex offenses, are subject to the requirements of this article:

A. Except as limited by subparagraph 6 or 7, the term "sex offense" means:

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1. A criminal offense that has an element involving a sexual act or sexual contact with another.
2. A criminal offense that is a "specified offense against a minor" that involves any of the following:
  - a. An offense (unless committed by a parent or guardian) involving kidnapping.
  - b. An offense (unless committed by a parent or guardian) involving false imprisonment.
  - c. Solicitation to engage in sexual conduct.
  - d. Use in a sexual performance.
  - e. Solicitation to practice prostitution.
  - f. Video voyeurism as described in 18 U.S.C. Section 801.
  - g. Possession, production, or distribution of child pornography.
  - h. Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.
  - i. Any conduct that by its nature is a sex offense against a minor.
3. A Federal offense (including an offense prosecuted under section 1152 or 1153 of Title 18 of the United States Code) under section 1591, or chapter 109A, 110 (other than section 2257, 2257A, or 2258), or 117, of Title 18 of the United States Code.
4. A military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note).
5. An attempt or conspiracy to commit an offense described in clauses 1 through 4.
6. Offenses involving Consensual Sexual Conduct. An offense involving consensual sexual conduct is not a sex offense for the purposes of this article if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least thirteen (13) years old and the offender was not more than four years older than the victim.
7. Foreign Offenses. A foreign conviction is not a sex offense for the purposes of this code unless it was either:
  - a. Obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or
  - b. Under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.
8. Tribal Offenses. A conviction under the Squaxin Island Tribal Code for any of the following offenses:

SITC 9.12.695 (rape in the first degree)

SITC 9.12.700 (rape in the second degree)

SITC 9.12.705 (rape in the third degree)

SITC 9.12.710 (statutory rape in the first degree)

SITC 9.12.715 (statutory rape in the second degree)

SITC 9.12.735 (child molestation)

SITC 9.12.770 (abusive sexual touching)

(Res. No. 12-62, 10-11-12)

### **Division 3. Tiered Offenses**

#### [9.12.1310 Tier 1 offenses.](#)

#### [9.12.1315 Tier 2 offenses.](#)

#### [9.12.1320 Tier 3 offenses.](#)

#### **9.12.1310 Tier 1 offenses.**

- A. Sex Offenses. A Tier 1 offense includes any sex offense, for which a person has been convicted, or an attempt or conspiracy to commit such an offense that is not a "Tier 2" or "Tier 3" offense.
- B. Offenses Involving Minors. A "Tier 1" offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to Section 1305(A)(7) that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.
- C. Tribal Offenses. Any sex offense covered by this act where punishment was limited to one year in jail shall be considered a "Tier 1" sex offense.
- D. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a "Tier 1" offense:
  - 1. 18 U.S.C. Section 1801 (video voyeurism of a minor),
  - 2. 18 U.S.C. Section 2252 (receipt or possession of child pornography),
  - 3. 18 U.S.C. Section 2252A (receipt or possession of child pornography),
  - 4. 18 U.S.C. Section 2252B (misleading domain names on the internet),
  - 5. 18 U.S.C. Section 2252C (misleading words or digital images on the internet),
  - 6. 18 U.S.C. Section 2422(a) (coercion to engage in prostitution),
  - 7. 18 U.S.C. Section 2423(b) (travel with the intent to engage in illicit conduct),
  - 8. 18 U.S.C. Section 2423(c) (engaging in illicit conduct in foreign places),
  - 9. 18 U.S.C. Section 2424(d) (arranging, inducing procuring or facilitating the travel in interstate commerce of an adult for the purpose of engaging in illicit conduct for financial gain),
  - 10. 18 U.S.C. Section 2424 (failure to file factual statement about an alien individual), or
  - 11. 18 U.S.C. Section 2425 (transmitting information about a minor to further criminal sexual conduct).
- E. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. Section 951 note) that is similar to those offenses outlined in Section 1.03.01(A), (B), or (C) shall be considered a "Tier 1" offense.

(Res. No. 12-62, 10-11-12)

#### **9.12.1315 Tier 2 offenses.**

- A. Recidivism and Felonies. Unless otherwise covered by Section 9.12.1320, any sex offense that is not the first sex offense for which a person has been convicted and that is punishable by more than one year in jail is considered a Tier 2 offense.



- B. Offenses Involving Minors. A Tier 2 offense includes any sex offense against a minor for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that involves:
1. The use of minors in prostitution, including solicitations,
  2. Enticing a minor to engage in criminal sexual activity,
  3. A non-forcible sexual act with a minor sixteen (16) or seventeen (17) years old,
  4. Sexual contact with a minor thirteen (13) years of age or older, whether directly or indirectly through the clothing, that involves the intimate parts of the body,
  5. The use of a minor in a sexual performance, or
  6. The production or distribution of child pornography.
- C. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a Tier 2 offense:
1. 18 U.S.C. Section 1591 (sex trafficking with children by force, fraud, or coercion),
  2. 18 U.S.C. Section 2243 (sexual abuse of a minor or ward),
  3. 18 U.S.C. Section 2243(d) (arranging, inducing[,], procuring or facilitating the travel in interstate commerce of a minor for the purpose of engaging in illicit conduct for financial gain),
  4. 18 U.S.C. Section 2244 (Abusive sexual contact, where the victim is thirteen (13) years of age or older),
  5. 18 U.S.C. Section 2251 (sexual exploitation of children),
  6. 18 U.S.C. Section 2251A (selling or buying of children),
  7. 18 U.S.C. Section 2252 (material involving the sexual exploitation of a minor),
  8. 18 U.S.C. Section 2252A (production or distribution of material containing child pornography),
  9. 18 U.S.C. Section 2260 (production of sexually explicit depictions of a minor for import into the United States),
  10. 18 U.S.C. Section 2421 (transportation of a minor for illegal sexual activity),
  11. 18 U.S.C. Section 2422(b) (coercing a minor to engage in prostitution),
  12. 18 U.S.C. Section 2423(a) (transporting a minor to engage in illicit conduct).
- D. Certain Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. Section 951 note) that is similar to those offenses outlined in Section 1.03.02(A), (B), or (C) shall be considered a "Tier 2" offense.

(Res. No. 12-62, 10-11-12)

### **9.12.1320 Tier 3 offenses.**

- A. Recidivism and Felonies. Any sex offense that is punishable by more than one year in jail where the offender has at least one prior conviction for a Tier 2 sex offense, or has previously become a Tier 2 sex offender, is a Tier 3 offense.
- B. General Offenses. A Tier 3 offense includes any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that involves:
1. Non-parental kidnapping of a minor,
  2. A sexual act with another by force or threat,

3. A sexual act with another who has been rendered unconscious or involuntarily drugged, or who is otherwise incapable of appraising the nature of the conduct or declining to participate, or
  4. Sexual contact with a minor twelve (12) years of age or younger, including offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing.
- C. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered conviction for a "Tier 3" offense:
1. 18 U.S.C. Section 2241 (a) and (b) (aggravated sexual abuse),
  2. 18 U.S.C. Section 2242 (sexual abuse),
  3. 18 U.S.C. Section 2243 (sexual abuse of a minor or ward), or
  4. Where the victim is twelve (12) years of age or younger, 18 U.S.C. Section 2244 (abusive sexual contact).
- D. Certain Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. Section 951 note) that is similar to those offenses outlined in Section 1.03.03(A), (B), or (C) shall be considered a "Tier 3" offense.

(Res. No. 12-62, 10-11-12)

#### **Division 4. Required Information**

[9.12.1325 General requirements.](#)

[9.12.1330 Criminal history.](#)

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[9.12.1340 DNA sample.](#)

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[9.12.1427 Sex offender acknowledgement form.](#)

**9.12.1325 General requirements.**

- A. Duties. A sex offender covered by this code who is required to register with the Squaxin Island Tribe pursuant to Section 9.12.1430 shall provide all of the information detailed in this Article to the Squaxin Island Public Safety and Justice Department, or its agent, and the Squaxin Island Public Safety and Justice Department, or its agent, shall obtain all of the information detailed in this article from covered sex offenders who are required to register with the tribe in accordance with this article and shall implement any relevant policies and procedures.
- B. Digitization. All information obtained under this article shall be, at a minimum, maintained by the Squaxin Island Public Safety and Justice Department, or its agent in a digitized format.
- C. Electronic Database. A sex offender registry shall be maintained in an electronic database by the Squaxin Island Public Safety and Justice Department, or its agent, and shall be in a form capable of electronic transmission.

(Res. No. 12-62, 10-11-12)

**9.12.1330 Criminal history.**

The Squaxin Island Public Safety and Justice Department, or its agent or designee, shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's criminal history:

- A. The date of all arrests,
- B. The date of all convictions,
- C. The sex offender's status of parole, probation, or supervised release,
- D. The sex offender's registration status, and
- E. Any outstanding arrest warrants.

(Res. No. 12-62, 10-11-12)

**9.12.1335 Date of birth.**

The Squaxin Island Public Safety and Justice Department, or its agent or designee, shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's date of birth:

- A. The sex offender's actual date of birth, and
- B. Any other date of birth used by the sex offender.

(Res. No. 12-62, 10-11-12)

**9.12.1340 DNA sample.**

- A. If the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide the Squaxin Island Public Safety and Justice Department, or its agent or designee, a sample of his DNA.
- B. Any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile into CODIS.

(Res. No. 12-62, 10-11-12)

**9.12.1345 Driver's licenses, identification cards, passports and immigration documents.**

- A. The Squaxin Island Public Safety and Justice Department, or its agent or designee shall obtain, and a covered sex offender shall provide, a photocopy of all of the sex offender's valid driver's licenses issued by any jurisdiction.
- B. The Squaxin Island Public Safety and Justice Department, or its agent or designee shall obtain, and a covered sex offender shall provide, a photocopy of any identification card including the sex offender's tribal enrollment card issued by any jurisdiction.
- C. The Squaxin Island Public Safety and Justice Department, or its agent or designee shall obtain, and a covered sex offender shall provide, a photocopy of any passports used by the sex offender.
- D. The Squaxin Island Public Safety and Justice Department, or its agent or designee shall obtain, and a covered sex offender shall provide, a photocopy of any and all immigration documents.

(Res. No. 12-62, 10-11-12)

**9.12.1350 Employment information.**

The Squaxin Island Public Safety and Justice Department is authorized to exercise the tribe's civil regulatory authority over employers operating within the exterior boundaries of the reservation, on land held in trust by members of the tribe, or on land owned by the tribe in fee or trust, regardless of location, to develop a system for notification to employees of the duty to register. The department, or its agent or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions:

- A. The name of the sex offender's employer,
- B. The address of the sex offender's employer, and
- C. Similar information related to any transient or day labor employment.

(Res. No. 12-62, 10-11-12)

**9.12.1355 Finger and palm prints.**

The Squaxin Island Public Safety and Justice Department, or its agent or designee, shall obtain, and a covered sex offender shall provide, both finger prints and palm prints of the sex offender in a digitized format.

(Res. No. 12-62, 10-11-12)

**9.12.1360 Internet identifiers.**

The Squaxin Island Public Safety and Justice Department, or its agent or designee, shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's internet related activity:

- A. Any and all email addresses used by the sex offender,
- B. Any and all Instant Message addresses and identifiers,
- C. Any and all other designations or monikers used for self-identification in internet communications or postings, and

- D. Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings.

(Res. No. 12-62, 10-11-12)

**9.12.1365 Name.**

The Squaxin Island Public Safety and Justice Department, or its agent or designee, shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's name:

- A. The sex offender's full primary given name,
- B. Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used, and
- C. Any and all ethnic or tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not otherwise commonly known.

(Res. No. 12-62, 10-11-12)

**9.12.1370 Phone numbers.**

The Squaxin Island Public Safety and Justice Department, or its agent or designee, shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's telephone numbers:

- A. Any and all land line telephone numbers, and
- B. Any and all cellular telephone numbers.

(Res. No. 12-62, 10-11-12)

**9.12.1375 Photograph.**

- A. The Squaxin Island Public Safety and Justice Department, or its agent or designee, shall obtain, and a covered sex offender shall provide, a current photograph of the sex offender.
- B. Unless the appearance of a sex offender has not changed significantly, a digitized photograph shall be collected:
  - 1. Every ninety (90) days for Tier 3 sex offenders.
  - 2. Every one hundred eighty (180) days for Tier 2 sex offenders.
  - 3. Every year for Tier 1 sex offenders.

(Res. No. 12-62, 10-11-12)

**9.12.1380 Physical description.**

The Squaxin Island Public Safety and Justice Department, or its agent or designee, shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:

- A. A physical description;
- B. A general description of the sex offender's physical appearance or characteristics; and
- C. Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.

(Res. No. 12-62, 10-11-12)

**9.12.1385 Professional licensing information.**

The Squaxin Island Public Safety and Justice Department, or its agent or designee, shall obtain, and a covered sex offender shall provide, all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

(Res. No. 12-62, 10-11-12)

**9.12.1390 Residence address.**

The Squaxin Island Public Safety and Justice Department, or its agent or designee, shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's residence:

- A. The address of each residence at which the sex offender resides or will reside, and
- B. Any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.

(Res. No. 12-62, 10-11-12)

**9.12.1395 School.**

The Squaxin Island Public Safety and Justice Department, or its agent or designee, shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's school:

- A. The address of each school where the sex offender is or will be a student, and
- B. The name of each school the sex offender is or will be a student.

(Res. No. 12-62, 10-11-12)

**9.12.1400 Social Security Number.**

The Squaxin Island Public Safety and Justice Department, or its agent or designee, shall obtain, and a covered sex offender shall provide, the following information:

- A. A valid Social Security Number for the sex offender, and
- B. Any Social Security Number the sex offender has used in the past, valid or otherwise.

(Res. No. 12-62, 10-11-12)

**9.12.1405 Temporary lodging and international travel.**

The Squaxin Island Public Safety and Justice Department, or its agent or designee, shall obtain, and a covered sex offender shall provide, the following information when the sex offender will be absent from his residence for seven days or more and twenty-one (21) days before the offender intends to travel to another country:

- A. Identifying information of the temporary lodging or international travel locations including addresses and names,
- B. The dates the sex offender will be staying at each temporary lodging or international travel location, and
- C. Travel Abroad. Sex offenders must inform their residence jurisdictions twenty-one (21) days in advance if they intend to travel outside of the United States. Jurisdictions must notify the U.S. Marshals Service and immediately notify any other jurisdiction where the sex offender is either

registered, or is required to register, of that updated information. Update also must be made to NCIC/NSOR.

(Res. No. 12-62, 10-11-12)

#### **9.12.1410 Offense information.**

The Squaxin Island Public Safety and Justice Department, or its agent or designee shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.

(Res. No. 12-62, 10-11-12)

#### **9.12.1415 Vehicle information.**

The Squaxin Island Public Safety and Justice Department, or its agents or designee shall obtain, and a covered sex offender shall provide, the following information related to all vehicles owned or operated by the sex offender for work or personal use including land vehicles, aircraft, and watercraft:

- A. License plate numbers,
- B. Registration numbers or identifiers,
- C. General description of the vehicle to include color, make, model, and year, and
- D. Any permanent or frequent location where any covered vehicle is kept.

(Res. No. 12-62, 10-11-12)

#### **9.12.1420 Frequency, duration and reduction.**

- A. A sex offender who is required to register shall, at a minimum, appear in person at the Squaxin Island Public Safety and Justice Department, or its agent, for purposes of verification and keeping their registration current in accordance with the following time frames:
  - 1. For Tier 1 offenders, once every year for fifteen (15) years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
  - 2. For Tier 2 offenders, once every one hundred eighty (180) days for twenty-five (25) years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
  - 3. For Tier 3 offenders, once every ninety (90) days for the rest of their lives.
- B. A sex offender may have their period of registration reduced as follows:
  - 1. A Tier 1 offender may have his or her period of registration reduced to ten (10) years if he or she has maintained a clean record for ten (10) consecutive years;
  - 2. A Tier 3 offender may have his or her period of registration reduced to twenty-five (25) years if he or she was adjudicated delinquent of an offense as a juvenile that required Tier 3 registration and he or she has maintained a clean record for twenty-five (25) consecutive years.
- C. For purposes of this section, a person has a clean record if:
  - 1. He or she has not been convicted of any offense, for which imprisonment for more than one year may be imposed,
  - 2. He or she has not been convicted of any sex offense,

3. He or she has successfully completed, without revocation, any period of supervised release, probation, or parole, and
4. He or she has successfully completed an appropriate sex offender treatment program certified by the tribe, another jurisdiction, or by the Attorney General of the United States.

(Res. No. 12-62, 10-11-12)

**9.12.1425 Requirements for in person appearances.**

- A. At each in person verification, the sex offender shall permit the Squaxin Island Public Safety and Justice Department, or its agent, to take a photograph of the offender.
- B. At each in person verification the sex offender shall review existing information for accuracy.
- C. If any new information or change in information is obtained at an in person verification, the Squaxin Island Public Safety and Justice Department, or its agent, shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change in information.

(Res. No. 12-62, 10-11-12)

**9.12.1427 Sex offender acknowledgement form.**

- A. The sex offender shall read, or have read to them, and sign a form stating that the duty to register has been explained to them by the Squaxin Island Public Safety and Justice Department and that the sex offender understands the registration requirement.
- B. The form shall be signed and dated by the Squaxin Island Public Safety and Justice Department personnel registering the sex offender.
- C. The Squaxin Island Public Safety and Justice Department shall immediately upload the acknowledgement form into the Squaxin Island Public Safety and Justice Department sex offender registry.

(Res. No. 12-62, 10-11-12)

**Division 5. Registration**

[9.12.1430 Where registration is required.](#)

[9.12.1435 Timing of registration.](#)

[9.12.1440 Retroactive registration.](#)

[9.12.1445 Keeping registration current.](#)

[9.12.1450 Failure to appear for registration and absconding.](#)

**9.12.1430 Where registration is required.**

- A. Jurisdiction of Conviction. A sex offender must initially register with the Squaxin Island Public Safety and Justice Department, or its agent, if the sex offender was convicted by the Tribal Court of a covered sex offense regardless of the sex offender's actual or intended residency.
- B. Jurisdiction of Incarceration. A sex offender must register with the Squaxin Island Public Safety and Justice Department, or its agent, if the sex offender is incarcerated by the tribe while completing any



sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.

- C. Jurisdiction of Residence. A sex offender must register with the Squaxin Island Public Safety and Justice Department, or its agent, if the sex offender resides within lands subject to the jurisdiction of the tribe.
- D. Jurisdiction of Employment. A sex offender must register with the Squaxin Island Public Safety and Justice Department, or its agent, if he or she is employed by the tribe in any capacity or otherwise is employed within lands subject to the jurisdiction of the tribe.
- E. Jurisdiction of School Attendance. A sex offender must register with the Squaxin Island Public Safety and Justice Department, or its agent, if the sex offender is a student in any capacity within lands subject to the jurisdiction of the tribe.

(Res. No. 12-62, 10-11-12)

#### **9.12.1435 Timing of registration.**

- A. A sex offender required to register with the Squaxin Island Tribe under this article shall do so in the following timeframe:
  - 1. If convicted by the Squaxin Island Tribe for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration;
  - 2. If convicted by the Squaxin Island Tribe but not incarcerated, within three business days of sentencing for the registration offense, and
  - 3. Within three business days of establishing a residence, commencing employment, or becoming a student on lands subject to the jurisdiction of the tribe, a sex offender must appear in person to register with the Squaxin Island Public Safety and Justice Department, or its agent.
- B. Duties of the Squaxin Island Public Safety and Justice Department, or its agent. The Squaxin Island Public Safety and Justice Department, or its agent, shall have policies and procedures in place to ensure the following:
  - 1. That any sex offender incarcerated or sentenced by the Tribe for a covered sex offense completes their initial registration with the Tribe;
  - 2. That the sex offender reads, or has read to them, and signs a form stating that the duty to register has been explained to them and that the sex offender understands the registration requirement;
  - 3. That the sex offender is registered; and
  - 4. That upon entry of the sex offender's information into the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status.

(Res. No. 12-62, 10-11-12)

#### **9.12.1440 Retroactive registration.**

- A. The Squaxin Island Public Safety and Justice Department, or its agent, shall have in place policies and procedures to ensure the following three categories of sex offenders are subject to the registration and updating requirements of this code:
  - 1. Sex offenders incarcerated or under the supervision of the tribe, whether for a covered sex offense or other crime,
  - 2. Sex offenders already registered or subject to a pre-existing sex offender registration requirement under the tribe's laws, and

3. Sex offenders reentering the justice system due to conviction for any felony.
- B. The Squaxin Island Public Safety and Justice Department, or its agent shall ensure recapture of the sex offenders mentioned in Section 9.12.1440(A) within the following timeframe to be calculated from the date of passage of this title:
  1. For Tier 1 sex offenders, one year,
  2. For Tier 2 sex offenders, one hundred eighty (180) days, and
  3. For Tier 3 sex offenders, ninety (90) days.

(Res. No. 12-62, 10-11-12)

#### **9.12.1445 Keeping registration current.**

- A. Jurisdiction of Residency. All sex offenders required to register in this jurisdiction shall immediately appear in person at Squaxin Island Public Safety and Justice Department, or its agent to update any changes to their name, residence (including termination of residency), employment, or school attendance. All sex offenders required to register in this jurisdiction shall immediately inform Squaxin Island Public Safety and Justice Department, or its agent of any changes to their temporary lodging information, vehicle information, Internet identifiers, or telephone numbers. In the event of a change in temporary lodging, the sex offender and Squaxin Island Public Safety and Justice Department, or its agent, shall immediately notify the jurisdiction in which the sex offender will be temporarily staying.
- B. Jurisdiction of School Attendance. Any sex offender who is a student in any capacity within lands subject to the jurisdiction of the Tribe, regardless of location, that change their school, or otherwise terminate their schooling, shall immediately appear in person at the Squaxin Island Public Safety and Justice Department, or its agent to update that information. The Squaxin Island Public Safety and Justice Department, or its agent, shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.
- C. Jurisdiction of Employment. Any sex offender who is employed by the Tribe in any capacity, or otherwise is employed within lands subject to the jurisdiction of the Tribe, regardless of location, that change their employment, or otherwise terminate their employment, shall immediately appear in person at the Squaxin Island Public Safety and Justice Department, or its agent, to update that information. The Squaxin Island Public Safety and Justice Department, or its agent, shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.
- D. Duties of Squaxin Island Public Safety and Justice Department, or its agent. With regard to changes in a sex offender's registration information, the Squaxin Island Public Safety and Justice Department, or its agent, shall immediately notify:
  1. All jurisdictions where a sex offender intends to reside, work, or attend school;
  2. Any jurisdiction where the sex offender is either registered or required to register; and
  3. Specifically with respect to information relating to a sex offender's intent to commence residence, school, or employment outside of the United States, any jurisdiction where the sex offender is either registered or required to register, and the U.S. Marshals Service.
  4. The Squaxin Island Public Safety and Justice Department shall also ensure this information is immediately updated on NSOR.

(Res. No. 12-62, 10-11-12)

**9.12.1450 Failure to appear for registration and absconding.**

Failure to Appear. In the event a sex offender fails to register with the tribe as required by this article, the Squaxin Island Public Safety and Justice Department, or its agent, shall immediately inform the jurisdiction that provided notification that the sex offender was to commence residency, employment, or school attendance within the jurisdiction of the Tribe that the sex offender failed to appear for registration.

**Division 6. Public Sex Offender Registry Website**

[9.12.1455 Website.](#)

[9.12.1460 Required and prohibited information.](#)

[9.12.1465 Community notification.](#)

**9.12.1455 Website.**

- A. Website. The Squaxin Island Public Safety and Justice Department, or its agent, shall use and maintain a public sex offender registry website.
- B. Links. The registry website shall include links to sex offender safety and education resources.
- C. Instructions. The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.
- D. Warnings. The registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.
- E. Search Capabilities. The registry website shall have the capability of conducting searches by (1) name; (2) county, city, and/or town; and, (3) zip code and/or geographic radius.
- F. Dru Sjodin National Sex Offender Public Website. The Department shall include in the design of its website all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website and shall participate in that website as provided by the Attorney General of the United States.

(Res. No. 12-62, 10-11-12)

**9.12.1460 Required and prohibited information.**

- A. Required Information. The following information shall be made available to the public on the sex offender registry website:
  - 1. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,
  - 2. All sex offenses for which the sex offender has been convicted,
  - 3. The sex offense(s) for which the offender is currently registered,
  - 4. The address of the sex offender's employer(s),
  - 5. The name of the sex offender including all aliases,
  - 6. A current photograph of the sex offender,
  - 7. A physical description of the sex offender,

8. The residential address and, if relevant, a description of a habitual residence of the sex offender,
  9. All addresses of schools attended by the sex offender, and
  10. The sex offender's vehicle license plate number along with a description of the vehicle.
- B. Prohibited Information. The following information shall not be available to the public on the sex offender registry website:
1. Any arrest that did not result in conviction,
  2. The sex offender's social security number,
  3. Any travel and immigration documents,
  4. The identity of the victim, and
  5. Internet identifiers (as defined in 42 U.S.C. Section 16911).
- C. Witness Protection. For sex offenders who are under a witness protection program, the Department of Public Safety and Justice may honor the request of the United States Marshals Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

(Res. No. 12-62, 10-11-12)

#### **9.12.1465 Community notification.**

- A. Law Enforcement Notification. Whenever a sex offender registers or updates his or her information with the tribe, the Squaxin Island Public Safety and Justice Department, or its agent, shall:
1. Immediately notify the FBI or other federal agency as designated by the Attorney General in order that the information may be updated on NSOR or other relevant databases,
  2. Immediately notify any agency, department, or program within the Tribe that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision functions, including but not limited to, police, whether BIA, tribal, or FBI, tribal prosecutors, and tribal probation.
  3. Immediately notify any and all other registration jurisdictions where the sex offender is registered due to the sex offender's residency, school attendance, or employment.
  4. Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks under Section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a) when a sex offender registers or updates registration.
- B. Community Notification. The Squaxin Island Public Safety and Justice Department, or its agent, shall ensure there is an automated community notification process in place that ensures the following:
1. Upon a sex offender's registration or update of information with the Tribe, the Tribe's public sex offender registry website is immediately updated,
  2. The Tribe's public sex offender registry has a function that enables the general public to request an e-mail notice that will notify them when a sex offender commences residence, employment, or school attendance with the Tribe, within a specified zip code, or within a certain geographic radius. This email notice shall include the sex offender's identity so that the public can access the public registry for the new information.

(Res. No. 12-62, 10-11-12)

### **Division 7. Immunity**

#### **[9.12.1470 Immunity.](#)**

**9.12.1470 Immunity.**

- A. Nothing under this chapter shall be construed as a waiver of sovereign immunity for the Squaxin Island Tribe, its departments, agencies, employees, or agents.
- B. Any person acting under good faith in implementing any provisions of this article shall be immune from any civil liability arising out of such actions.

(Res. No. 12-62, 10-11-12)

**Division 8. Crimes and Civil Sanctions**

**[9.12.1475 Crimes and civil sanctions.](#)**

**9.12.1475 Crimes and civil sanctions.**

- A. Each violation of a provision of this article by a sex offender who is an Indian shall be considered a crime and is a gross misdemeanor under Title 9 of the Squaxin Island Tribal Code.
- B. Each violation of a provision of this code by a sex offender who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, and civil contempt, with the fine not to exceed:
  - 1. Two hundred fifty dollars (\$250.00) for the first violation;
  - 2. Seven hundred fifty dollars (\$750.00) for the second violation
  - 3. One thousand dollars (\$1,000.00) for the third or subsequent violation.
- C. Customs and traditions and banishment/exclusion. Exclusions of sex offenders will be handled under Section 9.12.1480.
- D. Hindrance of sex offender registration shall be considered a crime and is a gross misdemeanor under Title 9 of the Squaxin Island Tribal Code.
  - 1. A person is guilty of an offense if he or she:
    - a. Knowingly harbors or knowingly attempts to harbor, or knowingly assists another person in harboring or attempting to harbor a sex offender who is in violation of this article;
    - b. Knowingly assists a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of this article; or
    - c. Provides information to law enforcement agency regarding a sex offender which the person knows to be false.

(Res. No. 12-62, 10-11-12)

**Division 9. Exclusion**

**[9.12.1480 Exclusion.](#)**

### **9.12.1480 Exclusion.**

The Squaxin Island Public Safety and Justice Department shall seek an exclusion order, under Chapter 2.16 of the Squaxin Island Tribal Code, against any individual who it has reason to believe has been classified as a Tier II or III sex offender under the laws of the Squaxin Island Tribe, or has been classified in a substantially equivalent level under the laws of any other jurisdiction. The Tribal Court shall grant such an exclusion order in every case unless otherwise prohibited by law. Provided, however, that as it relates to classification with respect to exclusion only, no sex offender shall have their classification altered by reason of the adoption of SITC Section 9.12.1280 through SITC Section 1480, for any offense committed prior to the adoption of this section.

(Res. No. 12-62, 10-11-12)

## **Chapter 9.16 FIRE CODE**

### **Sections:**

[9.16.010 Purpose.](#)

[9.16.020 Definitions.](#)

[9.16.030 General.](#)

[9.16.040 Limitations on ceremonial or religious burning.](#)

[9.16.050 Limitations on open burning.](#)

[9.16.060 Limitations on recreational burning.](#)

[9.16.070 Automatic discontinuance of open burning.](#)

[9.16.080 Penalties.](#)

### **9.16.010 Purpose.**

The purpose of this chapter is to provide regulations within Indian country to control the use of fires so that such use will not constitute a threat to the safety, health or welfare of persons, animals, buildings or other property thereon.

(Res. 07-31 § 53: Res. 98-87 (part))

### **9.16.020 Definitions.**

In construing the provisions of this chapter, except where otherwise plainly declared or clearly apparent, words herein shall be given their common and ordinary meaning. In addition, the following definitions shall apply:

"Ceremonial or religious burning" shall mean any burning for legitimate ceremonial or religious purposes.

"Open burning" shall mean the outdoor burning of any substance or material on the ground, in a pile, in a burn barrel or other container, or other similar types of burning, for the purpose of destroying, eliminating, altering or reducing the substance or material, or for the purpose of producing heat. Bonfires and other similar fires are included in the definition of open burning, whether or not cooking is also conducted.

"Recreational burning" shall mean the outdoor burning of charcoal, wood, natural gas, propane or other similar material in a pit dug in the ground, or in a container, designed and/or suitable for use as a

barbecue, for the purpose of cooking food. A recreational fire shall be no larger than necessary to cook food, and shall not be used for debris disposal purposes.

(Res. 98-87 (part))

#### **9.16.030 General.**

All outdoor burning shall be conducted in accordance with this chapter.

(Res. 98-87 (part))

#### **9.16.040 Limitations on ceremonial or religious burning.**

Ceremonial or religious burning shall be permitted, without restriction, except that Squaxin Island law enforcement is authorized to require that the burning be immediately discontinued if it determines that the burning constitutes a condition which is hazardous to the safety, health, or welfare of persons, animals, buildings or property.

(Res. 98-87 (part))

#### **9.16.050 Limitations on open burning.**

- A. Location. Open burning shall not be conducted within fifty (50) feet of any structure or other combustible material, and conditions which could cause the fire to spread to within fifty (50) feet of a structure or other combustible material shall be eliminated prior to ignition, except that clearance from structures and other combustible material is allowed to be reduced to not less than twenty-five (25) feet when the pile size is three feet or less in diameter and two feet or less in height.
- B. Time. Open burning shall not be commenced before dawn, and no material is to be added after dusk.
- C. Fire-extinguishing Equipment. Except on Squaxin Island, a garden hose connected to a water supply shall be readily available for use at open burning sites. On the Island, buckets, shovels, or other equipment sufficient to extinguish the fire must be available.
- D. Attendance. Burning material shall be constantly attended by a person at least fourteen (14) years of age who is knowledgeable in the use of the fire-extinguishing equipment required by subsection C of this section and familiar with other restrictions on open burning under this chapter. The attendant shall supervise the burning material until the fire has been extinguished.
- E. Discontinuance by Squaxin Island Law Enforcement. Squaxin Island law enforcement is authorized to require that open burning be immediately discontinued if it determines that smoke emissions are offensive to occupants of surrounding property or if the open burning is determined by law enforcement to constitute a hazardous condition.

(Res. 98-87 (part))

#### **9.16.060 Limitations on recreational burning.**

- A. Location. Recreational burning shall not be conducted within twenty-five (25) feet of any structure or other combustible material, and conditions which could cause the fire to spread to within twenty-five (25) feet of a structure or other combustible material shall be eliminated prior to ignition, except that it is permissible to properly operate a commercially produced barbecue, specifically designed for the purpose of cooking food, no less than ten (10) feet from any structure.
- B. Fire-extinguishing Equipment. Buckets, shovels, a garden hose connected to a water supply, or a fire-extinguisher with a minimum 4-A rating shall be readily available for use at recreational fires.

- C. Attendance. Burning material shall be constantly attended by a person at least fourteen (14) years of age who is knowledgeable in the use of the fire-extinguishing equipment required by subsection B of this section and familiar with other restrictions on open burning under this chapter. The attendant shall supervise the burning material until the fire has been extinguished.
- D. Discontinuance by Squaxin Island Law Enforcement. Squaxin Island law enforcement is authorized to require that recreational burning be immediately discontinued if it determines that smoke emissions are offensive to occupants of surrounding property or if the open burning is determined by law enforcement to constitute a hazardous condition.

(Res. 99-77 (part); Res. 99-51 § 10; Res. 98-87 (part))

#### **9.16.070 Automatic discontinuance of open burning.**

All open burning shall be automatically discontinued whenever the fire marshal in the county where the property is located declares a countywide burn ban. The Squaxin Island Administrative Services Department shall post a burn ban notice at the Tribal Center whenever a burn ban is in effect in Mason County, and telephone inquiries may be directed to 426-9781.

(Res. 07-31 § 54; Res. 98-87 (part))

#### **9.16.080 Penalties.**

- A. Infractions. Any violation of this chapter, including the failure to immediately discontinue a fire when so directed by Squaxin Island Law Enforcement or pursuant to a burn ban, shall be deemed an infraction.
- B. Penalties. The penalty for any infraction under this chapter shall be fifty dollars (\$50.00) for the first cited infraction, seventy-five dollars (\$75.00) for the second cited violation, and one hundred dollars (\$100.00) for the third and subsequent cited infractions committed within one year.

(Res. 98-87 (part))

### **Chapter 9.20 BORDER AND INDIAN COUNTRY SECURITY ACT\***

#### **Sections:**

[9.20.010 Title.](#)

[9.20.020 Purpose.](#)

[9.20.030 Jurisdiction.](#)

[9.20.040 Definitions.](#)

[9.20.050 Administration and enforcement.](#)

[9.20.060 Delegation.](#)

[9.20.070 Administration of border checkpoints and searches.](#)

[9.20.080 Penalties—Temporary exclusion—Confiscation—Criminal and/or civil penalties.](#)

[9.20.090 Effective date.](#)

[9.20.100 Severability.](#)



#### **9.20.010 Title.**

This code shall be known as the "Squaxin Island Border and Indian Country Security Act."

(Res. 07-31; Res. 04-55 (part))

#### **9.20.020 Purpose.**

Threats to the public safety are one of the most important issues facing governments at every level today. The Tribal Council wishes to take every reasonable measure to protect the Squaxin Island Community from threats of terrorism, crime, and the dangers associated with illegal drug use. While the Law and Order Code provides law enforcement with tools to address crime already occurring in Indian country, it does not adequately address the entrance into Indian country of dangerous weapons or substances. Therefore, the purpose of this chapter is to provide regulations to: protect the security and welfare of all persons and property in Indian country by securing the borders against entry of illegal or dangerous substances and weapons; establish guidelines and criteria for border searches; and provide a program of enforcement through the Squaxin Island Law Enforcement Department.

(Res. 07-31 § 56; Res. 04-55 (part))

#### **9.20.030 Jurisdiction.**

The provisions of this code, in conformance with applicable federal laws, shall extend to all persons who seek to enter Indian country, whether on foot, in a vehicle, or by other means.

(Res. 07-31 § 57; Res. 04-55 (part))

#### **9.20.040 Definitions.**

For the purposes of this chapter only, unless a different meaning is plainly required or otherwise specified:

"Border" means any entrance to Indian country.

"Council" or "Tribal Council" means the Squaxin Island Tribal Council.

"Court" or "Tribal Court" means the Squaxin Island Tribal Court, including the Court of Appeals.

"Deadly weapon" means any explosive or loaded or unloaded firearm, and shall include any other weapon, device, instrument, article, or substance, which is readily capable of causing death or serious bodily injury.

"Hazardous substance" means any substance in whatever form which is readily capable of causing death or serious bodily injury. In determining whether a substance is hazardous for purposes of this chapter, law enforcement will take into account possible combinations of substances present in the same vehicle or transported by the same person and the reasonable likelihood that the substance may be used for a nonhazardous, legitimate purpose.

"Includes" or "including" means includes but is not limited to.

"Indian country," consistent with the meaning given in 18 U.S.C. 1151 means:

1. All land within the limits of the Squaxin Island Indian Reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; and
2. All Indian allotments or other lands held in trust for a Squaxin Island Tribal member or the Tribe, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

"Law enforcement" means Squaxin Island law enforcement officers or other law enforcement officers who have jurisdiction to enforce this chapter pursuant to any memorandum of agreement, cross-deputization or special commission agreement, or other appointment or agreement.

(Res. 07-31 §§ 58, 59; Res. 04-55 (part))

#### **9.20.050 Administration and enforcement.**

Administration and enforcement of this chapter shall be the responsibility of the tribal police chief. The chief of police shall, to the extent his budget allows:

- A. Provide for the maintenance of border checkpoints and conduct of border searches;
- B. Temporarily exclude persons from Indian country who either refuse to submit to a search at a border checkpoint or who, upon such a search, appear to pose a threat to the welfare and safety of persons or property within Indian country.

(Res. 07-31 § 60; Res. 04-55 (part))

#### **9.20.060 Delegation.**

Reserved.

#### **9.20.070 Administration of border checkpoints and searches.**

- A. Location. Law enforcement may establish one or more border checkpoints at any place that is the functional equivalent of a border. Such checkpoints shall be located near, but need not be placed exactly at, the boundary of Indian country. Any person attempting to enter Indian country at a point not clearly marked as an Indian country boundary shall be first notified that they are at or near an Indian country border, and shall be permitted to leave if they so choose. If the person wishes to continue to enter Indian country, he or she shall be subject to search at any marked boundary.
- B. Search Criteria.
  - 1. Every person seeking to enter Indian country shall be subject to search when a border checkpoint is in place.
  - 2. Border searches may include a routine search of the person and/or vehicle, including any packages or other materials.
  - 3. More intrusive searches shall require reasonable suspicion or probable cause pursuant to applicable law.

(Res. 07-31 §§ 61, 62; Res. 04-55 (part))

#### **9.20.080 Penalties—Temporary exclusion—Confiscation—Criminal and/or civil penalties.**

- A. Temporary Exclusion. Law enforcement shall exclude from Indian country for a period of no less than twenty-four (24) hours and no more than seventy-two (72) hours any person who either:
  - 1. Refuses to submit to a search at a border checkpoint; or
  - 2. Appears, upon a search at a border checkpoint, to pose a threat to the welfare or safety of persons or property within Indian country.
- B. Confiscation. Law enforcement shall confiscate from any person attempting to enter Indian country any:
  - 1. Dangerous weapon for which the person does not possess a valid, current, permit;

2. Illegal substance; or
  3. Hazardous substance for which the person does not appear to have a legitimate purpose or for which the danger clearly outweighs any legitimate purpose alleged.
- C. Criminal and Civil Penalties. Law enforcement may pursue any additional criminal and/or civil penalties that may apply under Squaxin Island tribal law.
- D. The Squaxin Island Tribal Court shall have exclusive jurisdiction over any issue arising under this chapter. Nothing in this chapter shall be deemed to constitute a waiver of the sovereign immunity of the Squaxin Island Tribe, its officers, employees, or agents.

(Res. 07-31 §§ 63—65; Res. 04-55 (part))

**9.20.090 Effective date.**

This chapter shall become effective twenty-one (21) days after its adoption by the Tribal Council.

(Res. 04-55 (part))

**9.20.100 Severability.**

If any provision of this chapter, or its application to any person or circumstance, is held invalid or unconstitutional, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

(Res. 04-55 (part))