

## **Title 7 NATURAL RESOURCE MANAGEMENT**

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### **Chapter 7.04 GENERAL PROVISIONS**

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### **7.04.010 Title.**

This title shall be known as the Squaxin Island Natural Resources Management Act.

(Res. 99-03 (part))

### **7.04.020 Statement of policy and purpose.**

It is the policy of the Squaxin Island Tribe of Indians to maximize the natural resources of the Tribe, and to secure to the Tribe the greatest possible return from its natural resources, in a manner which is consistent with the conservation of those resources, the safety of its members, and effective enforcement of its regulations. It is the purpose of this Act to further these policies and to provide a mechanism for their accomplishment.

The Squaxin Island Tribe affirms its authority and commitment to preserve, protect and promote Tribal culture and heritage. This trust includes the management of ancient and contemporary cultural use sites and resources that are fundamental in the recognition of traditional life ways, values and histories of the Tribe. These cultural sites and resources include those associated with traditional foods and other natural resources.

It is recognized that these are an invaluable, irreplaceable and endangered Tribal resource. It is a basic Tribal intent that these resources be protected and preserved within the Tribe's traditional areas and all other lands within the jurisdiction of the Tribe. It is the intent of the Tribe to protect, preserve and manage cultural and natural resources by the use of policy, statutory requirements and prohibitions, and regulations. In keeping with this intent, the following policies are established:

- A. It is a policy of the Tribe to encourage all property owners, land managers and developers in the Tribe's traditional areas to adhere to federal, state and tribal laws protecting natural and cultural resources.
- B. It is a policy of the Tribe to recognize that all activities to preserve and maintain the culture of its people are a legitimate and necessary Tribal governmental function.
- C. It is a policy of the Tribe, to the extent that other tribal laws or regulations are not affected, to manage and protect all cultural and natural resources within the Tribe's traditional areas and all other lands within the Tribe's jurisdiction in a manner that preserves, protects and or enhances the vitality of the resource.
- D. In addition to relevant federal and state laws, tribal laws and policies are established by this chapter to protect cultural and natural resources.

(Res. 06-96 (part): Res. 99-03 (part))

### **7.04.030 Jurisdiction.**

- A. Persons Applied. The provisions of this Act shall be applicable to all members of the Squaxin Island Tribe, and to any other person whenever such person is either acting under authority of the Squaxin Island Tribe of Indians or acting upon property or treaty resources within the jurisdiction of the

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Squaxin Island Tribe, including its usual and accustomed fishing grounds and stations, ceded and/or traditional areas. To the greatest extent possible, property within the jurisdiction of the Squaxin Island Tribe shall be construed to include all lands within the Tribe's traditional areas and all other lands owned by the Tribe in fee or held in trust on behalf of the Tribe or its members.

- B. **Subjects Applied.** This Act shall apply to the full extent of the sovereign jurisdiction of the Squaxin Island Indian Tribe; and shall apply to all agreements or other cooperative arrangements entered into by the Squaxin Island Tribe which are designed to provide access to available natural resources and to provide effective natural resource management. The Tribal Council may enter into agreements or other cooperative arrangements that supersede this Act.
- C. **Deemed to Consent.** Any person acting under Tribal authority, or entering upon property within the jurisdiction of the Squaxin Island Tribe, shall be deemed thereby to have consented to the following:
  - 1. To be bound by the terms of this Act;
  - 2. To the exercise of civil jurisdiction by the Squaxin Island Tribal Court over said person in legal actions arising pursuant to this Act; and
  - 3. To detainment, service of summons and process, and search and seizure, in conjunction with legal actions arising pursuant to this Act.

(Res. 06-96 (part); Res. 99-03 (part))

### **7.04.040 Authority of the Tribal Council.**

- A. **Tribal Council Authority.** The Treaty rights retained by the Squaxin Island Tribe of Indians by the Treaty of Medicine Creek were retained by the Tribe as a whole, and thus will be regulated by the Tribe through its representative and governing body, the Tribal Council.
- B. **Departmental Authority.** Except as may be otherwise provided by this Act, all authority to regulate the natural resources, and to carry out and enforce the provisions of this Act and any regulation adopted hereunder, shall be vested in the Squaxin Island Natural Resources Department and Squaxin Island Law Enforcement to the extent deemed necessary by the Tribal Council to effectuate the purpose of this Act.

(Res. 99-03 (part))

### **7.04.050 Definitions.**

The following definitions apply throughout this title unless specified otherwise.

"Annual regulations" means a regulation governing the overall structure of harvest for the annual management period.

"Assist" and its derivatives means to help, aid, encourage, command, solicit, request, facilitate or promote another to either commit an act which is prohibited by this Act or its regulations, or to refrain from conduct which is required by this Act or its regulations.

"Bag limits" means a number or pound limitation on the harvest of a specific natural resource set on a daily or tide-based time frame.

"Ceded area" means that area ceded to the United States by the Squaxin Island Tribe in the Medicine Creek Treaty of 1854.

"Ceremonial harvest" means a harvest conducted by one or more tribal members for the purposes of obtaining natural resources to be used solely for Tribal or personal ceremonial and/or religious purposes and with prior written authorization by the Tribal Council or its designee.

"Closed" means, for any resource, all of the time during the entire calendar year, excepting the time harvest is allowed for that resource as specified by Tribal regulations.

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"Emergency regulation" means a regulation promulgated to accomplish a limited purpose for a limited period of time.

"Enrolled person" means any person who is an enrolled member of the Squaxin Island Tribe.

"Equipment" means any and all tools used to facilitate the harvesting and/or processing of natural resources.

"Fish" or "fishing" means to attempt to, or actually catch, trap, net or otherwise take any finfish, shellfish or aquatic resources from its natural habitat by any means whatsoever; and/or having caught any finfish, shellfish or aquatic resource by any means previously described, to possess the same on a harvest site.

"Fish tickets" means Treaty Indian fish receiving tickets.

"Fishery resource" means all marine resources found within the Squaxin Island Tribe's sub-tidal and inter-tidal areas and includes all finfish, shellfish and other aquatic resources.

"Game" includes all wild land animals and birds covered by this Act and its regulations.

"Harvesting gear" means all types and sizes of hooks, nets, spears, gaffs, lines, traps, forks, shovels, water jets, appliances, firearms and other apparatus used to take finfish, shellfish, aquatic, or game resources.

"Harvesting under the influence" means harvesting while under the influence of alcohol or narcotics as defined by Section 2.25.010 of the Law and Order Code.

"Hunting activities" and "hunt" mean and include any exercise of Tribal Treaty hunting rights; including, but not limited to, traveling to and from a hunt, stalking game, skinning or otherwise dressing game, and any other effort to kill, injure, trap, capture, or harass game.

"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 and Order Code" means that code adopted by Tribal Council Resolution 91-51 and any amendments thereto.

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

"License" means a certification by the Natural Resources Department for conduct of commercial harvest.

"Mechanical equipment" means any and all tools used to facilitate the harvesting and/or processing of natural resources.

"Natural Resources Department" means the department of the Tribe charged with the management of the natural resources within the jurisdiction of the Squaxin Island Tribe.

"Nonmember" means any person, whether Indian or non-Indian, who is not an enrolled member of the Squaxin Island Indian Tribe.

"Open" or its derivatives, means, for any species, the time period or periods designated by Tribal regulations during which it is lawful to harvest that species pursuant to this Act.

"Permits" means written authorization for the harvest of natural resources for noncommercial uses.

"Person" includes any individual, corporation, partnership, Indian Tribe, or any other entity, whether public or private.

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"Regulations" means annual and/or emergency regulations promulgated pursuant to this Act.

"Senior" means a tribal member fifty-five (55) years of age or older.

"Shellfish" means aquatic invertebrates including, but not limited to, manila, steamer, butter, horse and geoduck clams, mussels, oysters, shrimp, crab, squid, sea cucumber and sea urchin.

"SITC" is the short citation for the Squaxin Island Tribal Code.

"Spouse" is the person to whom a tribal member is married and who also permanently resides in the Tribal member's household.

"Squaxin Island Tribal Code" means the Tribal Code codified by Tribal Council Resolution 98-90, and as may, from time to time, be amended.

"Squaxin Island Tribal Court" or "Tribal Court" means the judicial division of the Squaxin Island Tribe codified at SITC Chapter 4.04. "Subsistence harvest" is a harvest conducted by one or more tribal members for the purpose of obtaining natural resources to be used solely for personal consumption.

"Sub-tidal harvest" means to harvest underwater at or below minus five feet below mean lower low water by hand or with mechanical means including the use of compressed or surface supplied air.

"Test fishery" is a fishery conducted on a limited basis for the purpose of obtaining biological, technical or market information necessary to further the purpose of this Act.

"The Tribe" means the Squaxin Island Tribe of Indians.

"To participate in fishing, shellfishing, or aquatic resource harvesting" and their derivatives means any effort to operate a vessel or harvesting gear, or provide immediate supervision in the operation of a vessel or harvesting gear, or otherwise assist in the fishing operation or to claim possession of a share of the catch. All persons on board a vessel, whether floating or beached, which is engaged in fishing, or all persons at the end of a net that is controlled from a beach, shore or land, or in an immediate area of the net to assist in the control of such net or device, are deemed to be participating in fishing.

"Traditional areas" means the reservation, ceded lands, traditional use areas, and other areas of importance to the Tribe. The term is to be construed broadly.

"Treaty Indian fish receiving tickets" means those tickets issued by the Tribe for purposes of statewide treaty fishing catch accounting. All commercial sales of fish and shellfish resources must be registered on these tickets.

"Tribal Chairperson" is the chair of the Tribal Council of the Squaxin Island Tribe of Indians.

"Tribal Council" is the Tribal Council of the Squaxin Island Tribe of Indians.

"Tribal Council resolution" means a written resolution passed by motion and majority vote of a quorum of the Tribal Council.

"Tribal enforcement officer" means each person charged with the responsibility of enforcing this Act and regulations adopted pursuant thereto.

"Tribal fishing areas" means all places and stations reserved to the Tribe in the Treaty of Medicine Creek, 1854, as adjudicated by the United States District Court for the Western District of Washington as "usual and accustomed grounds and stations of the Squaxin Island Tribe," in the litigation known as United States v. Washington, Civil No. 9213, which includes but is not limited to the fresh and marine waters of Southern Puget Sound north to the Tacoma Narrows.

"Tribal harvester" (or "authorized tribal harvester") means a tribal member who is authorized to fish or harvest finfish, shellfish or aquatic resources pursuant to this Act.

"Tribal hunter" (or "authorized tribal hunter") means a tribal member who is authorized to hunt game animals pursuant to this Act.

"Tribal member" or "members" means an enrolled member of the Squaxin Island Tribe.

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"Tribal property" includes Indian country and any property owned or leased by the Tribe or any of its wholly owned entities.

"Wastage" means the destruction or neglect to the point of spoilage of natural resources, except in circumstances or levels allowed by regulation.

(Res. 07-31 §§ 26, 27; Res. 06-96 (part); Res. 99-03 (part))

(Res. No. 11-18, § 2, 3-24-11; Res. No. 12-48, 8-23-12; Res. No. 13-76, 10-24-13)

### **7.04.060 Committees and commissions.**

The Tribal Council, at its discretion, may create committees or commissions which shall act as advisory bodies to the Tribal Council in order to effectuate the purposes of this Act.

(Res. 99-03 (part))

### **7.04.070 Natural Resources Director.**

- A. Authority. As the needs of the Tribe may dictate, the Tribal Council may employ a person to serve as the Natural Resources Director for the Tribe.
- B. Responsibilities. In accordance with the dictates of the Tribal Council, and consistent with the purpose of this Act, the Natural Resources Director is responsible for carrying out the practical application of the harvest management, resource enhancement, and resource survey programs pertaining to the natural resources of the Tribe and making recommendations to the Tribal Council regarding the natural resources of the Tribe.

(Res. 99-03 (part))

### **7.04.080 Tribal enforcement officers.**

- A. Authority. In the exercise of its authority to enforce this Act, and the regulations adopted hereunder, the Tribal Council shall employ persons to serve as Tribal enforcement officers.
- B. Chief Enforcement Officer. One of these officers shall be designated by the Tribal Council as the Chief Enforcement Officer, who shall have the responsibility of coordinating and regulating the activities of the Tribal enforcement officers in a manner consistent with the dictates of the Tribal Council and with this Act, and to attend meetings of any committees or commissions created pursuant to this Act.
- C. General Powers. In accordance with the dictates of the Tribal Council, the Tribal enforcement officers shall institute a field enforcement program designed to secure compliance with this Act and the regulations adopted hereunder.

(Res. 99-03 (part))

### **7.04.090 Tribal harvest regulations generally.**

- A. Harvest Areas. Descriptions of areas open for harvest under this title shall be described in duly-adopted regulations of the Squaxin Island Tribe.
- B. Harvest Closed Unless Specifically Opened. All harvesting areas shall be closed, unless specifically opened by duly-adopted regulations of the Squaxin Island Tribe.
- C. Power to Promulgate Regulations. The power to promulgate such regulations shall be vested exclusively in the Tribal Council, although such power may be delegated to the Natural Resources Department Director by the Tribal Council in accordance with this Act.

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- D. Tribal Council Resolutions. No such regulation, except emergency regulations as set forth herein, shall become effective unless ratified by Tribal Council resolution.

(Res. 99-03 (part))

### **7.04.100 Annual regulations.**

- A. Promulgation. Prior to the opening of harvest seasons for any natural resources, the Tribal Council shall, consistent with the terms of this Act, promulgate annual regulations governing the conduct of the Treaty harvest with regard to that species.
- B. Contents. Such annual regulations shall, at a minimum, include the following:
1. A delineation of all types of harvesting gear which may be legally used for harvest of the particular resource;
  2. If necessary, a delineation of specific types of gear which may not be legally used;
  3. Specific requirements regarding daily telephone reports of catches when necessary;
  4. A designation of all areas which will be available to open for the harvest of a particular species; and the seasonal times at which these areas will be available for opening;
  5. A specific designation of the duration of the harvest seasons; and
  6. Such other provisions as may be necessary to further the purpose of this Act, or as the Tribal Council may deem necessary to meet the requirements set forth by the United States District Court for the Western District of Washington, in United States v. Washington, Civil Cause Number 9213, and all subsequent subproceedings under said cause number.

(Res. 99-03 (part))

### **7.04.110 Emergency regulations.**

- A. Director Authorization. The Natural Resources Director may from time to time promulgate such emergency regulations as may be necessary to effectuate the purposes of this Act.
- B. Termination. An emergency regulation promulgated pursuant to this section may be terminated at any time by the Tribal Council or the Natural Resources Director.
- C. Effective Upon Signatures. Emergency regulations shall be in effect upon the signature of the Natural Resources Director or his or her designee, given in writing to the Tribal Council, and must be signed within twenty-four (24) hours by one Council member. All emergency regulations will be reviewed by Tribal Council at the next regularly scheduled meeting for approval or disapproval.
- D. Effect. Such emergency regulations may modify existing regulations and/or create new regulatory law, and shall have the same force and effect as if they had been promulgated by the Tribal Council.

(Res. 99-03 (part))

### **7.04.120 Notice requirements.**

- A. Law Enforcement. No regulation adopted pursuant to this Act shall become effective until notice of such regulation is supplied to persons authorized to harvest pursuant to this Act and to the Law Enforcement Department.
- B. Harvesters. For the purpose of this section, notice of any regulation shall be deemed to have been supplied to persons authorized to harvest pursuant to this Act twenty-four (24) hours after a copy of the regulation has been:
1. Mailed to all such persons at their last known mailing address; or

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2. Conspicuously posted at the Squaxin Island Natural Resources Department and allowed to remain there posted.
  - C. Personal Receipt. Notwithstanding subsection B of this section, any person shall be deemed to have been given notice of any regulation if said person has received a copy of the regulation.
  - D. Official Verbal Notification. Any person shall have been deemed to have been personally notified if the regulation is verbally given to them by an enforcement officer or official representative of the Tribe and given time to remove gear from water or otherwise comply with that regulation.
  - E. U.S. v. Washington Requirements. Regulations will be filed in accordance with specific requirements of U.S. v. Washington, Number 9213.
- (Res. 99-03 (part))

### **7.04.130 License fees.**

- A. Payment. No person may engage or assist in a harvest prior to paying any applicable licensing fee to the Tribe. License fees shall be set in the annual regulations.
  - B. Creation and Modification. The creation and amount of a licensing fee shall be determined on an annual basis by the Tribal Council, and may be increased or decreased from year to year by tribal resolution as the Tribal Council deems necessary.
  - C. Licensing Upon Payment. No Tribal harvester shall be issued a commercial harvest license pursuant to this Act or regulations promulgated hereunder prior to fulfillment of any and all overdue obligations by that harvester to the Squaxin Island Tribal Court, Natural Resources Department or Office of Housing.
- (Res. 02-103 (part); Res. 99-03 (part))

### **7.04.140 Taxes and assessments.**

- A. Purposes. Taxes and assessments on the sale of resources harvested pursuant to this title may be levied for the purposes of management, enhancement, enforcement, or other purposes as deemed appropriate by the Tribal Council.
  - B. Timing of Effect. Taxes and assessments shall not take effect until sixty (60) days from the date of the Tribal Council resolution.
  - C. Failure to Pay. Failure to pay all taxes and/or assessments within the prescribed times may result in the suspension of harvest privileges by the Natural Resources Department.
  - D. Seniors shall be exempt from geoduck stumpage tax.
- (Res. 99-03 (part))  
(Res. No. 10-13, 1-13-10)

### **7.04.150 Requiring additional reporting.**

- A. Information Required. To effectuate the purposes of this title, the Tribal Council may request Tribal members to provide additional information pertinent to their role in harvests pursuant to this title.
  - B. Failure to Provide. If a Tribal member fails to provide such information as requested, that member shall be forbidden from participating in the harvest until the information is provided.
- (Res. 99-03 (part))

**7.04.160 Prohibitions and penalties.**

The following prohibitions apply throughout this title unless otherwise specified.

- A. Litter Prohibited. It is unlawful for tribal members or assistants to leave any refuse in fresh or marine waters, on the beaches or on the uplands during any harvesting activity. Violation of this provision is a Class D penalty.
- B. Harvest Under the Influence. It is unlawful for tribal members or assistants to harvest shellfish while under the influence of drugs and/or alcohol. Violation of this provision is a Class C penalty.
- C. Ban on Alcohol. It is unlawful for tribal members or assistants to drink alcohol while harvesting shellfish. Violation of this provision is a Class D penalty.
- D. Wastage. It is unlawful to waste natural resources harvested pursuant to this Act. Violation of this provision is a Class D penalty.
- E. Unauthorized Transfer of Vessel Numbers. It is unlawful to transfer vessel identification numbers issued by the Natural Resources Department to a boat for which those numbers were not issued. Violation of this provision is a Class D penalty.
- F. Failure to Cease Harvest. It is unlawful to fail to remove gear or cease harvest during daily hourly closures in an open area during an open season for a particular species. Violation of this provision is a Class D penalty.

(Res. 99-03 (part))

**7.04.170 Other ordinances apply.**

All applicable provisions of SITC Title 9 shall apply to prosecution of violations under this Act, where consistent. This shall include applicable Rules of Civil Procedure. The entire Law and Order Code also applies to all on and off reservation Treaty resource use related conduct, and thus must be complied with by all harvesters.

(Res. 99-03 (part))

**7.04.180 Interpretation.**

This Act shall be liberally construed to effectuate its purpose.

(Res. 99-03 (part))

**7.04.190 Saving clause.**

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

(Res. 99-03 (part))

**Chapter 7.08 PENALTIES**

**Sections:**

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#### **7.08.010 Activities in violation of Act or regulation unlawful.**

- A. Harvest According to Act Required. It is unlawful for any Tribal member, or any other person acting under Tribal authority or upon Tribal property, to harvest, use or disturb, or attempt to harvest, use or disturb, natural resources covered by this Act except as provided herein and as provided in the regulations adopted pursuant to this Act.
- B. Citation Reference to Applicable Section. Citations may refer to the applicable section or regulation allegedly violated, and need not refer to the provisions under this section.

(Res. 99-03 (part))

#### **7.08.020 Chapter definitions.**

As used in this chapter, the following terms are defined in this section:

"Citation" means an order upon violation of this Act, issued by a law enforcement officer, to either pay a fine and/or to appear before a judge at a later date. A citation may be issued whether the violating person is taken into custody or not.

"Defendant" means a person accused with a violation of this Act bearing criminal penalties.

"Fishery resources" means seized finfish and shellfish resources which are harvested commercially pursuant to this Act.

"Game resources" means seized animals or parts thereof normally harvested pursuant to Chapter 7.24. "Individual fishers quota" or "IFQ" means a share or percentage of a harvestable total of a natural resource, held by an individual harvester.

"Restitution" means the repayment by a defendant or violator, as a condition of their sentence or citation, a monetary amount of the natural resources illegally harvested or wasted.

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

"Violator" means a person accused of violation of this Act bearing civil penalties.

(Res. 99-03 (part))

#### **7.08.030 Penalty classes.**

- A. Class A Penalties. Class A penalties shall be criminal penalties and shall be punishable by:
  - 1. For the first violation, a fine of up to five thousand dollars (\$5,000.00), suspension of harvest privileges for up to six months, or if on an annual individual fishers quota (IFQ) system, a loss of up to one-half of the IFQ for the following year, and restitution of resources harvested in violation of this Act.

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2. For the second violation, a mandatory fine of five thousand dollars (\$5,000.00); suspension of harvest privileges for up to one year, or if on an annual IFQ System, a loss of up to two-thirds of the IFQ for the following year; restitution of resources harvested in violation of this Act; and, at the court's discretion, civil forfeiture of vehicles, firearms, boats or harvest gear used in the commission of the offense.
  3. For the third violation, a mandatory fine of five thousand dollars (\$5,000.00); mandatory suspension of harvest privileges for two years, or if on an annual IFQ system, a loss of the IFQ for the next two full allocation years following judgement; restitution of resources harvested in violation of this Act; and, at the court's discretion, civil forfeiture of vehicles, firearms, boats or harvest gear used in the commission of the offense.
- B. Class B Penalties. Class B penalties shall be criminal penalties and shall be punishable by:
1. For the first violation, a fine of up to one thousand dollars (\$1,000.00), suspension of harvest privileges for up to six months, or if on an annual IFQ system, a loss of up to one-third of the IFQ for the following year, and restitution of resources harvested in violation of this Act.
  2. For the second violation, a fine of up to three thousand dollars (\$3,000.00), suspension of harvest privileges for six months, or if on an annual IFQ system, a loss of one-half of the IFQ for the following year, and restitution of resources harvested in violation of this Act; and, at the court's discretion, civil forfeiture of vehicles, firearms, boats or harvest gear used in the commission of the offense.
  3. For the third or subsequent violation, a fine of up to five thousand dollars (\$5,000.00), suspension of harvest privileges for one year, or if on an annual IFQ system, a loss of the individual fisher quota for the following year, and restitution of resources harvested in violation of this Act; and, at the court's discretion, civil forfeiture of vehicles, firearms, boats or harvest gear used in the commission of the offense.
- C. Class C Penalties. Class C penalties shall be civil penalties and shall be punishable by:
1. For the first violation, a fine of up to two hundred fifty dollars (\$250.00), suspension of harvest privileges for up to six months, or if on an annual IFQ system, a loss of up to one-tenth of the individual fisher quota for the following year, and restitution of resources harvested in violation of this Act.
  2. For the second violation, a mandatory fine of two hundred fifty dollars (\$250.00), suspension of harvest privileges for up to six months, or if on an annual IFQ system, a loss of up to one-fifth of the individual fisher quota for the following year, and restitution of resources harvested in violation of this Act.
  3. For the third or subsequent violation, a mandatory fine of five hundred dollars (\$500.00), suspension of harvest privileges for up to one year, or if on an annual IFQ system, a loss of up to one-third of the individual fisher quota for the following year, and restitution of resources harvested in violation of this Act.
- D. Class D Penalties. Class D penalties shall be civil penalties and shall be punishable by:
1. For the first violation, a fine of one hundred fifty dollars (\$150.00).
  2. For the second violation, a fine of two hundred fifty dollars (\$250.00).
  3. For the third or subsequent violation, by a fine of five hundred dollars (\$500.00).
- E. Civil forfeiture penalties pursuant to Chapter 7.10 shall be in addition to the penalties in this section.  
(Res. 06-96 (part); Res. 99-03 (part))

**7.08.040 Prior violations.**

- A. Determination of Prior Violations. Upon the finding of a violation of any of the provisions set forth herein, the Tribal Court shall determine whether such violation constitutes the first, second, third, or subsequent findings of violation by that defendant or violator for violations of similar severity.
- B. Guidelines in Determination. In making this determination, the Tribal Court shall adhere to the following guidelines:
  - 1. If the violation in question is a Class A penalty, the Tribal Court shall consider all of such individual's violations for Class A penalties occurring within the three-year period immediately preceding the date of the violation for which sentencing is being considered.
  - 2. If the violation in question is a Class B penalty, the Tribal Court shall consider all of such individual's violations for Class A and Class B penalties occurring within the two-year period immediately preceding the date of the violation for which sentencing is being considered.
  - 3. If the violation in question is a Class C penalty, the Tribal Court shall consider all of such individual's violations for Class A, B, and C penalties occurring within the one-year period immediately preceding the date of the violation for which sentencing is being considered.
  - 4. If the violation in question is a Class D penalty, the Tribal Court shall consider all of such individual's violations for all classes within the one-year period immediately preceding the date of the violation for which sentencing is being considered.

(Res. 99-03 (part))

**7.08.050 Sentencing and probation.**

- A. Sentencing. Once it has determined whether the violation constitutes a first, second, third or subsequent violation, the Tribal Court shall sentence the defendant or violator according to the guidelines provided in the applicable paragraph of this chapter.
- B. Probation. The Tribal Court may, in its discretion, apply periods of probation based upon mitigating circumstances.
- C. Completion of Probation. If such person completes his or her period of probation without violation of the terms and conditions, they shall be deemed to have satisfied the provisions of the suspended sentence originally imposed.
- D. Violation of Probation. If it is proved by clear and convincing evidence that such person has violated one or more of the terms or conditions of the probation, the Tribal Court may, in its discretion, revoke probation and enforce in full effect the sentence originally imposed.

(Res. 99-03 (part))

**7.08.060 Seizure and forfeiture.**

Upon arrest or issuance of a citation for Class A, B, or C violation, the law enforcement officer may seize property pursuant to Chapter 7.10 of the Tribal Code.

(Res. 06-96 (part); Res. 99-03 (part))

**7.08.070 Unclaimed resources and gear.**

Tribal law enforcement officers are also authorized to confiscate gear and natural resources when the owner of the gear is unknown or the gear is found unattended or left unattended beyond a time period specified in a regulation promulgated pursuant to this Act.

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- A. Efforts to Locate and Notify. In all cases of confiscation of unattended gear, Squaxin Island law enforcement shall make reasonable efforts to locate and notify the owner of the gear, including if necessary, posting of notices at appropriate places on or off the reservation.
- B. Time Period Before Forfeiture. If the owner of the gear has not contacted Squaxin Island law enforcement after a period of thirty (30) days after notices are posted, law enforcement may move for a forfeiture of the gear in Tribal Court.
- C. Order of Forfeiture. The Tribal Court may order the items forfeited if it finds that reasonable efforts have been made to notify the owners.

(Res. 99-03 (part))

### **7.08.080 Disposition of property.**

When seized property or proceeds from the sale of natural resources are forfeited under this chapter, the property and/or proceeds shall be turned over to the Tribal Council for the use and benefit of the Tribe.

(Res. 99-03 (part))

### **7.08.090 Impoundment fee for claimed property.**

When a property owner claims property confiscated by Tribal officers under this chapter, they shall pay a one time impoundment fee of seventy-five dollars (\$75.00) and storage fee of fifty dollars (\$50.00) for each month after the first month unless the Tribal Court determines either, on motion of the owner, that the property should not have been confiscated, in which no fees are owed; or, on motion of the tribe, that confiscation and/or storage costs were in excess of those amounts, in which case the Tribal Court shall determine the actual costs to be reimbursed by the owner.

(Res. 99-03 (part))

## **Chapter 7.10 CIVIL SEIZURE AND FORFEITURE**

### **Sections:**

[7.10.010 Purpose.](#)

[7.10.020 Jurisdiction.](#)

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

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

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

[7.10.060 Answer to notice.](#)

[7.10.070 Procedure for hearing.](#)

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

[7.10.090 Disposition of forfeited property.](#)

### **7.10.010 Purpose.**

The purpose of this chapter is to provide for civil remedial forfeiture of all property used or acquired in Class A, B, or C violations of the Natural Resources Management Act (hereafter, the "Act"). The

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remedial measures of this chapter are civil in nature and are designed and intended to encourage compliance with natural resources management regulations and to compensate the Squaxin Island Tribe for enforcement costs and damage to the peace, security, welfare and resources of the Tribe. Said measures are not designed or intended to punish persons for breach of natural resources management regulations since no property right exists in property subject to seizure and forfeiture under this chapter.

(Res. 06-96 (part))

### **7.10.020 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 anywhere within the jurisdiction of the Tribe.

(Res. 06-96 (part))

### **7.10.030 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 natural resources that have been distributed, acquired or possessed in violation of the Act or other tribal or state law or regulation;
  2. All raw materials, products, and equipment of any kind that is used, or intended for use, in distributing, acquiring, or possessing natural resources in violation of the Act or other tribal or state law or regulation;
  3. All property that is used, or intended for use, as a container for property described in subsection (A)(1) or (A)(2) of this section;
  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 Act or other tribal or state law or regulation;
  5. All conveyances, including vehicles, vessels, or aircraft that are used, or intended for use, in any manner to transport property described in subsections (A)(1), (A)(2) or (A)(3) of this section, or in which property described in those subsections is deposited, concealed, kept, possessed, or used by an occupant, or to facilitate the violation of the Act or other tribal or state law or regulation; 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 natural resource in violation of the Act or other tribal or state law or 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 Act or other tribal or state law or regulation.

However, all property seized under subsection (A)(5) or (A)(6) of this section 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. 06-96 (part))

### **7.10.040 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:

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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 Act, or other tribal or state law or regulation; or
  3. A law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of the Act, or other tribal or state law or 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. 06-96 (part))

### **7.10.050 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, and of a newspaper of general circulation in the county in which the property was seized.
  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, a newspaper of general circulation in the county in which the property was seized, 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. 06-96 (part))

### **7.10.060 Answer to notice.**

Within thirty (30) days after the mailing or publication of a notice of seizure as provided under Section 7.10.050, 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. 06-96 (part))

### **7.10.070 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.

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- 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 7.10.050.
- 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. 06-96 (part))

### **7.10.080 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. 06-96 (part))

### **7.10.090 Disposition of forfeited property.**

- A. 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 Act or other tribal or state law or regulation, in property under Section 7.10.030(A)(5) or (A)(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 (A)(2) of this section.
- B. 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.
- C. The Tribal Police Department shall retain for its use, for any official use related to natural resource violation enforcement, prevention, or education, the net proceeds of any property forfeited and sold pursuant to this chapter.

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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.
- D. Forfeited property not sold shall be retained by the Tribal Police Department for any official use related to natural resource violation enforcement, prevention or education. Upon proper application, such forfeited property may be sold to any tribal department for official tribal use.

(Res. 06-96 (part))

### **Chapter 7.12 TREATY FINFISH**

#### **Sections:**

[7.12.010 Chapter definitions.](#)

[7.12.020 Authorized fishers.](#)

[7.12.030 Family assistance.](#)

[7.12.040 Tribal fisher identification.](#)

[7.12.050 Family assistant identification.](#)

[7.12.060 Sale or purchase by Tribal fishers or Tribal Council.](#)

[7.12.070 Subsistence and ceremonial fisheries.](#)

[7.12.080 Test fisheries.](#)

[7.12.090 Site reservations.](#)

[7.12.100 Gear identification and safety requirements.](#)

[7.12.110 Fishing vessel, gear and equipment; catch agreement.](#)

[7.12.120 Chapter prohibitions and penalties.](#)

#### **7.12.010 Chapter definitions.**

As used in this chapter, the following terms are defined in this section:

"Commercial fishing" means the taking of finfish resources with the intent to sell them or profit economically from them.

"Site reservation" is the right of a Tribal fisher to fish in a designated fishing area to the exclusion of all other fishers.

"Spouse" means the person to whom a member is married and who permanently resides in the member's household. However, for purposes of family assistance pursuant to this chapter, one year must expire from the date of the marriage.

(Res. 99-03 (part))

**7.12.020 Authorized fishers.**

Only enrolled members of the Squaxin Island Tribe, sixteen (16) years of age and older, are authorized to exercise Tribal fishing rights commercially pursuant to this Act, and annual and emergency regulations promulgated hereunder.

(Res. 99-03 (part))

**7.12.030 Family assistance.**

- A. Authority. A Tribal member may be accompanied by their nonmember spouse or children (both member and nonmember) below the age of sixteen (16).
- B. License Fee. A Tribal fishing identification card will be issued to a family assistant of an authorized Tribal fishery only upon payment of a licensing fee. The amount of such fee shall be determined on an annual basis by the Tribal Council.
- C. Responsibility. Tribal fishers will be responsible for the actions of their family assistants taken pursuant to this section including harvesting without a properly issued identification card and/or permit and fishing without being accompanied by the authorized Tribal fisher.
- D. Judicial Loss of Privileges. In the event that a family assistant is cited and found guilty, or fails to appear in Tribal Court for a violation of this Act, that individual will immediately lose all fishing privileges.

(Res. 99-03 (part))

**7.12.040 Tribal fisher identification.**

- A. Department Directed to Issue. Prior to exercising the right to engage in Tribal fisheries pursuant to the terms of this Act, a Tribal member must first obtain a Treaty Indian fishing identification card from the Natural Resources Department. This identification card shall be certified by the Tribal Chairperson and shall include the name, Tribal affiliation and assigned number of the holder, together with a photograph of the holder. This card shall be the property of the Tribe. The Tribal Council may authorize the use of temporary identification pending the issuance of the Tribal fishing identification card.
- B. Possession. The card must be on the holder's person, or within the immediate control of the holder, during all times he or she is exercising his or her right to fish pursuant to this Act, or pursuant to the regulations adopted hereunder; and must be presented to any authorized enforcement officer upon request. It is unlawful for the holder of a Tribal fishing identification card to transfer that card to another person for use by that person. It is also unlawful to attempt to use a Tribal fishing identification card which was not issued to that person.
- C. Presentation. A Tribal fisher must present his or her Tribal fishing identification card to the buyer in the sale of any fish caught, trapped or otherwise taken pursuant to this Act.
- D. Reporting of Loss. If a Treaty Indian fishing identification card is lost, the holder must report its loss to the Tribe within forty-eight (48) hours from the time of loss. Upon the loss of a card, the holder shall be responsible for the payment of the Tribal fish tax on the proceeds from the sale of any fish sold pursuant to that card prior to the reporting of the loss.

(Res. 99-03 (part))

**7.12.050 Family assistant identification.**

- A. Department Directed to Issue. Prior to exercising the right to assist a Tribal fisher in the Tribal fishery, a family assistant must first obtain from the Natural Resources Department a Tribal fishing assistant identification card.
- B. Contents. This identification card shall be certified by the Tribal Chairperson and shall include the name and if applicable, Tribal affiliation and enrollment number of the holder, together with a photograph of the holder.
- C. Consent to be Bound. Any person issued an assistant identification card shall be deemed to have consented to be bound by the terms of this Act and regulations adopted hereunder, and the card shall so state. All assistants must read and comply with all fishing laws and regulations.
- D. Possession. The card must be on the holder's person, or within the immediate control of the holder, during all such times as he or she is exercising his or her assistance privileges to a Tribal fisher in the Tribal fishery pursuant to this Act, or pursuant to the regulations adopted hereunder; and must be presented to any Tribal, state or federal enforcement officer upon request.
- E. Transfer or Loan. It is unlawful for the holder of an assistant identification card to transfer that card to another person for use by that person. It is also unlawful to use or attempt to use a card not specifically issued to that person.
- F. Reporting of Loss. If an assistant identification card is lost, the holder must report his loss to the Tribe within forty-eight (48) hours from the time of loss.

(Res. 99-03 (part))

**7.12.060 Sale or purchase by Tribal fishers or Tribal Council.**

- A. Sale by Tribal Fisher. The original sale to a bona fide wholesale or retail buyer of any resource taken in the Tribal fishery must be by, or on behalf of the Tribal fisher catching the resource, or by the Tribal Council. Only an authorized Tribal fisher may make such sale.
- B. Authority to Forbid Sale to Buyer. The Tribal Council shall have the right, upon just cause, to forbid Tribal fishers from selling fishery resources to designated buyers.
- C. Harvester Fish Tickets. All persons exercising the Treaty fishing rights of the Squaxin Island Tribe shall, upon delivery and sale of any fishery resource obtained by any means in a Treaty protected fishery on or off the Squaxin Island Indian Reservation to any purchaser, fill out a Treaty Indian fish receiving ticket, whose form shall be prescribed by the Squaxin Island Tribal Council or other lawful authority.
- D. Presumption of Knowledge and Certification. It shall be conclusively presumed that the Tribal fisher and Tribal buyer know and have read the contents of the completed ticket and certify and acknowledge that the statements on the ticket are true.

(Res. 99-03 (part))

(Res. No. 11-18, § 3, 3-24-11)

**7.12.070 Subsistence and ceremonial fisheries.**

- A. Persons Authorized. Any member of the Squaxin Island Tribe, who is otherwise authorized to engage in the Tribal fishery pursuant to this Act, may conduct a subsistence or ceremonial fishery upon any species of fish during the Tribal open commercial season for that species.
- B. Harvest During Opening. Subsistence or ceremonial harvest may occur during the Tribal open commercial season for that species, provided, however, that the amount taken may count against the harvester's overall quota, if an individual fisher's quota is in use for that specific species.

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- C. Harvest During Closure: Tribal fishers may conduct a subsistence or ceremonial fishery during the closed season, or during the closed periods of the Tribal commercial fishing season, only upon the issuance of an emergency regulation authorizing such fishery. The Tribal Council shall encourage Tribal fishers to conduct their subsistence or ceremonial fisheries during the open commercial fishing season, and shall allow subsistence or ceremonial fisheries during the closed season, or during closed periods of the commercial fishing season, only on a very limited basis.
- D. Assistance. In conducting a subsistence or ceremonial fishery during a closed period, Tribal members may be assisted only by authorized Tribal fishers or by assistants in accordance with this chapter.
- E. Harvest Limits. Daily permits and catch limits may be required by regulation.
- F. Permits. Permits may be required by annual or emergency regulation
- G. Reports. Within twenty-four (24) hours after engaging in a subsistence or ceremonial fishery, a Tribal fisher must submit a report to the Natural Resources Department detailing the number and species taken from each fishing area during the fishery.
- H. Unlawful Use. It is unlawful to utilize fishery resources taken during any Tribal subsistence or ceremonial fishery for any purpose other than for personal consumption.

(Res. 99-03 (part))

### **7.12.080 Test fisheries.**

- A. Contracting for Harvesters. The Tribal Council, or the Natural Resources Director when so authorized by Tribal Council, may contract with one or more Tribal fishers for the performance of a test fishery. Choice of fishers contracted to conduct test fisheries shall be made by the Tribal Council or the Natural Resources Director when so authorized.
- B. Selection of Harvesters. The selection shall be based upon type of gear utilized by the Tribal fisher and the consistency of participation in commercial fishery openings by the Tribal fisher.
- C. Timing of Contracting. The contracting of Tribal fishers to conduct test fisheries in each specific fishing area may be accomplished before the fishing season commences to insure adequate performance of test fisheries through long standing notification of participation.
- D. Alternate Harvesters. Alternate test fishers may also be chosen before the fishing season to participate in test fisheries in the event that primary test fishers chosen are unable to perform a specific test fishery.
- E. Criteria. Test fisheries may be conducted only on a limited basis, and only upon the existence of technical or biological evidence which reasonably indicates that such a fishery will be necessary to effectuate the purpose of this Act.
- F. Information Sharing With Other Agencies: Upon compilation of the results of the test fishery, information regarding said results shall be made available to the proper agencies upon their request.
- G. Compensation. Fishers who contract with the Tribe to conduct a test fishery shall be compensated for their commitment of time, labor and equipment according to an established scale to be set by the Tribal Council.

(Res. 99-03 (part))

### **7.12.090 Site reservations.**

- A. Establishing Site Reservations. Upon the opening of the fishing season for any species of anadromous fish, any authorized and licensed Tribal fisher may establish an exclusive right to fish for that species in a particular site by:

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1. Locating a fishing site within a Tribal fishing area which is either:
    - a. Not a usual and accustomed fishing ground and station of another Tribe, or
    - b. By agreement, is not fished by any other Tribe, and at which no authorized and licensed Tribal fisher has fished during the preceding two fishing days; and
  2. Being the first authorized and licensed Tribal fisher to fish the site after the expiration of said two fishing days.
- B. Exclusive Use. As among Tribal fishers and others fishing pursuant to this Act, a Tribal fisher who so establishes a site reservation shall have the exclusive right to fish such site while he or she is fishing that site.
- C. Expiration During Season. Once a fisher has established a site reservation, the reservation shall be deemed to have expired if the fisher leaves the site for more than two fishing days.
- D. Expiration After Season. All site reservations for a particular species shall expire upon the expiration of the annual open fishing season for that species.
- E. Size of Site Reservations: For the purposes of this section, a fishing site may be no larger than as may be necessary to accommodate the authorized gear used by the fisher in establishing the site reservation on that site.
- F. Disputes. In the instance when two or more authorized fishers try to establish a site reservation at the same time and same location and are unable to resolve the dispute, the dispute shall be presented to law enforcement personnel for settlement. The settlement shall be by lottery.
- G. Distance Between Reservations: All sites must be one maximum net length from other established sites unless otherwise agreed to by the affected fishers.

(Res. 99-03 (part))

### **7.12.100 Gear identification and safety requirements.**

- A. Boat Identification. No boat, ship or other nautical vessel may be utilized in the Tribal fishery unless it displays identification. The type of identification shall be promulgated in the annual regulations.
- B. Proof of Registered Ownership. Any vessel participating in the fishery must have proof of registered ownership demonstrating it belongs to a Squaxin Island Tribal member.
- C. Gear Identification. No fishing gear utilized in the Tribal fishery may be left unattended unless such gear is marked with authorized identification. The type of identification shall be promulgated in the annual regulations.

(Res. 99-03 (part))

### **7.12.110 Fishing vessel, gear and equipment; catch agreement.**

- A. Use of Non-Indian Gear. It is unlawful for any Tribal member to work for any person not having Treaty rights within the Squaxin Island Tribe's usual and accustomed areas (exclusive or shared), or as the operator of any non-Indian owned fishing gear or equipment, in order to take fish pursuant to this Act for the primary economic gain of such non-Indian person.
- B. Share of Catch. It is further unlawful for any Tribal member to participate in any shared catch or percentage of catch agreement with a non-Indian person in exchange for the use of any fishing gear or equipment in the Tribal fishery.
- C. Ownership. It is unlawful for any Tribal member to hold less than a one hundred (100) percent ownership interest in the vessel, gear and equipment that he or she uses for Treaty fishing, unless (1) he or she shares ownership with another Squaxin Tribal member, or (2) a federally registered lending institution holds a security interest.

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- D. Recording Credit Purchase Contracts. Additionally, after such prior approval from the Squaxin Island Tribal Council is achieved, a copy of the contract, duly signed and notarized must be on file in the Natural Resources Department.
- E. Tribal First Right of Refusal: Further, the conditions of the contract must include a statement awarding the Squaxin Island Tribal Council the right of first refusal in the event of a default on the part of the fisher.

(Res. 99-03 (part))

(Res. No. 12-48, 8-23-12)

### 7.12.120 Chapter prohibitions and penalties.

- A. No Valid License or Permit. It is unlawful for Tribal members to fish without a validly issued license or permit in an open fishing area. This provision does not apply to Tribal fishers simply failing to possess on their person their validly issued license or permit. Violation of this provision is a Class B penalty.
- B. Fishing in Closed Area. It is unlawful for a Tribal member to fish in an area not validly opened by Tribal regulation, except violations of daily hourly closures covered below. Violation of this provision is a Class B penalty.
- C. Failure to Possess Permit. It is unlawful for a Tribal fisher to participate in an open fishery without possession on their person, his or her validly issued fishing identification. Violation of this provision is a Class D penalty.
- D. Receiving Unauthorized Assistance. It is unlawful for a Tribal fisher to receive assistance by any person other than another Tribal fisher or a family assistant. Violation of this provision is a Class B Penalty.
- E. Providing Unauthorized Assistance. It is unlawful to assist any Tribal fisher without a validly issued license and assistant identification. This provision does not apply to a Tribal fisher or family assistant simply failing to possess on their person their validly issued identification. Violation of this provision is a Class D penalty.
- F. Failure to Possess Assistant Identification. It is unlawful for a family assistant to assist any Tribal fisher without possessing on their person, their validly issued identification. Violation of this provision is a Class D penalty.
- G. Unauthorized Harvest Equipment. It is unlawful to fish with gear that does not conform to the net marking and/or lighting, the net length, mesh size requirements, or any other gear requirements in the annual regulations. Violation of this provision is a Class D penalty.
- H. Refusal To Produce Information. It is unlawful to refuse to produce fishing identification to authorized Tribal, state or federal enforcement officials. Violation of this provision is a Class C penalty.
- I. Use of Another's Identification. It is unlawful for a person to use or attempt to use a Tribal fishing identification which was not issued to that individual. Violation of this provision is a Class C penalty.
- J. Sale Without Identification. It is unlawful to sell fish without proper fishing identification. Violation of this provision is a Class D penalty.
- K. Failure to Report Loss of Identification. It is unlawful for a Tribal fisher or family assistant to fail to report the loss of fishing identification within forty-eight (48) hours from the time its loss was noticed. Violation of this provision is a Class D penalty.
- L. Failure to Provide Information. It is unlawful to fail to provide statistical information within the time period required by regulation. Violation of this provision is a Class D penalty.
- M. Sale to Unauthorized Buyer. It is unlawful for a Tribal fisher to sell fish to unauthorized buyers. Violation of this provision is a Class D penalty.

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- N. Fisher Failure to Properly Fill Out Fish Tickets. It is unlawful for Tribal fishers to improperly fill out fish tickets. Violation of this provision is a Class D penalty.
- O. Ceremonial or Subsistence Fishery Without Permit. It is unlawful for Tribal members to engage in a subsistence or ceremonial fishery without a ceremonial or subsistence permit, if such permit is required under annual or emergency regulation. Violation of this provision is a Class C penalty.
- P. Exceeding Catch or Bag Limits. It is unlawful for Tribal members to fish in excess of catch or bag limits if such limits are required under annual or emergency regulation. Violation of this provision is a Class D penalty.
- Q. Failure to Report Ceremonial or Subsistence Harvest. It is unlawful for Tribal members to fail to report subsistence or ceremonial harvest within the time frame required by annual or emergency regulation. Violation of this provision is a Class D penalty.
- R. Nonceremonial or Nonsubsistence Use. It is unlawful for Tribal members to use resources harvested for ceremonial or subsistence purposes for nonceremonial or nonsubsistence purposes. Violation of this provision is a Class B penalty.
- S. Unauthorized Sale of Test Fishery Resources. It is unlawful for Tribal members to sell fish caught in a test fishery without authorization either issued by the Squaxin Island Natural Resources Department in writing, or under emergency regulation. Violation of this provision is a Class B penalty.
- T. Improper Markings. It is unlawful for Tribal members to engage in fishing without properly marked gear or vessels. Violation of this provision is a Class D penalty.
- U. Use of Non-Indian Gear in Tribal Fishery. It is unlawful for a Tribal member to operate non-Indian owned gear or vessels in order to take fish pursuant to this Act for the primary economic gain of such non-Indian. Violation of this provision is a Class C penalty.
- V. Share of Catch With Non-Indians. It is unlawful for a Tribal member to participate in any shared catch or percentage of catch agreement with a non-Indian person in exchange for the use of any fishing gear or vessels. Violation of this provision is a Class C penalty.
- W. Use of Boat, Gear or Equipment Without one hundred (100) percent Ownership Interest. It is unlawful for a Tribal fisher to utilize any boat, gear or equipment in the Tribal fishery in which he or she does not hold a one hundred (100) percent ownership interest, unless (1) he or she shares ownership with another Squaxin Tribal member, or (2) a federally recognized lending institution holds a security interest.  
Violation of this provision is a Class B penalty.
- X. Failure to Provide First Right of Refusal. It is unlawful for a Tribal member to execute a contract to purchase a Treaty fishing vessel which does not contain provisions for the Tribal Council to have first right of refusal to in the event of a default. Violation of this provision is a Class C penalty.
- Y. Failure to Remove Gear. It is unlawful to fail to remove gear or cease fishing during daily hourly closures in an open area during an open season for that species.
- Z. Failure to Yield to Site Reservation. It is unlawful to fail to yield to a legitimate site reservation established by another Tribal fisher. Violation of this provision is a Class D penalty.

(Res. 99-03 (part))

(Res. No. 11-18, § 4, 3-24-11; Res. No. 12-48, 8-23-13)

### **Chapter 7.16 TREATY INTER-TIDAL SHELLFISH**

#### **Sections:**

[7.16.010 Chapter definitions.](#)

[7.16.020 Authorized fishers.](#)

[7.16.030 Designated harvesters.](#)

[7.16.040 On-reservation harvest.](#)

[7.16.050 Family assistance.](#)

[7.16.060 Tribal fisher identification.](#)

[7.16.070 Assistant identification.](#)

[7.16.080 Sale or purchase by Tribal fishers or Tribal Council.](#)

[7.16.090 Subsistence and ceremonial fisheries.](#)

[7.16.100 Shellfish harvesting equipment.](#)

[7.16.110 Prohibitions and penalties.](#)

### **7.16.010 Chapter definitions.**

As used in this chapter, the following terms are defined in this section:

"Designated harvester" means a Tribal member who has received authorization to harvest a share of inter-tidal shellfish for another Tribal member.

"Long-term disability" means a disability making a Tribal fisher physically unable, as opposed to physically difficult, to harvest inter-tidal shellfish for a period of time no shorter than three years.

"Short-term disability" means a disability making a Tribal fisher physically unable, as opposed to simply physically difficult, to harvest inter-tidal shellfish for a period of time no shorter than two months, and no longer than three years.

(Res. 99-03 (part))

### **7.16.020 Authorized fishers.**

Only enrolled members of the Squaxin Island Tribe, sixteen (16) years of age and older, are authorized to exercise Tribal shell-fishing rights commercially pursuant to this Act, and annual and emergency regulations promulgated hereunder.

(Res. 99-03 (part))

### **7.16.030 Designated harvesters.**

A Tribal member who is a senior or has a physical impairment that constitutes or results in a substantial impediment to participating in the Treaty reserved right to harvest shellfish may apply to the Tribal Council for either a short- or long-term disability assistance permit, subject to the following:

- A. Application and Documentation. The application must be accompanied by documentation from a licensed medical doctor, which must include a description of the disability, limitations, restrictions and duration expectations of disability.
- B. Department Authorization. Upon approval, Tribal Council will authorize the Natural Resources Department to issue an assistance permit to the assistant.
- C. Who May Assist. Assistance may be generated from a spouse or other family member.
- D. Presence Required. The person receiving assistance, other than seniors, and the assistance provider must both be present at the beach and have valid permits during the harvest.
- E. Designated Areas. Tribal Council may also designate areas for disabled harvesters.

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(Res. 99-03 (part))

### **7.16.040 On-reservation harvest.**

Any person authorized to engage in Tribal off-reservation harvests pursuant to this Act shall be authorized to engage in the Tribal on-reservation harvests under the same terms and conditions applicable to his or her assistance in the Tribal off-reservation harvests.

(Res. 99-03 (part))

### **7.16.050 Family assistance.**

- A. Authority. A Tribal member may be accompanied by their nonmember spouse or children (both member and nonmember) below the age of sixteen (16).
- B. License Fee. A Tribal fishing identification card will be issued to a family assistant of an authorized Tribal fishery only upon payment of a licensing fee. The amount of such fee shall be determined on an annual basis by the Tribal Council.
- C. Responsibility. Tribal fishers will be responsible for the actions of their family assistants taken pursuant to this section including harvesting without a properly issued identification card and/or permit and fishing without being accompanied by the authorized Tribal fisher.
- D. Judicial Loss of Privileges. In the event that a family assistant is cited and found guilty, or fails to appear in Tribal Court for a violation of this chapter, that individual will immediately lose all fishing privileges.

(Res. 99-03 (part))

### **7.16.060 Tribal fisher identification.**

- A. Department Directed to Issue. Prior to exercising the right to engage in Tribal shellfish harvest pursuant to the terms of this Act, a Tribal member must first obtain from the Natural Resources Department a Treaty Indian fishing identification card. This identification card shall be certified by the Tribal Chairperson and shall include the name, Tribal affiliation and assigned number of the holder, together with a photograph of the holder. This card shall be the property of the Tribe. The Tribal Council may authorize the use of temporary identification pending the issuance of the Tribal fishing identification card.
- B. Possession. The card must be on the holder's person, or within the immediate control of the holder, during all times he or she is exercising his or her right to shellfish pursuant to this Act, or pursuant to the regulations adopted hereunder; and must be presented to any authorized enforcement officer upon request. It is unlawful for the holder of a Tribal fishing identification card to transfer that card to another person for use by that person.
- C. Presentation. A Tribal fisher must present his or her Tribal fishing identification card to the buyer in the sale of any shellfish harvested pursuant to this Act.
- D. Reporting of Loss. If a Treaty Indian fishing identification card is lost, the holder must report its loss to the Tribe within forty-eight (48) hours from the time of loss. Upon the loss of a card, the holder shall be responsible for the payment of the Tribal fish tax on the proceeds from the sale of any shellfish sold pursuant to that card prior to the reporting of the loss.

(Res. 99-03 (part))

**7.16.070 Assistant identification.**

- A. Department Directed to Issue. Prior to exercising the right to assist a Tribal fisher in the fishery, an assistant must first obtain from the Natural Resources Department a Tribal fishing assistant identification card.
- B. Contents. This identification card shall be certified by the Tribal Chairperson and shall include the name and if applicable, Tribal affiliation and enrollment number of the holder, together with a photograph of the holder.
- C. Consent to Be Bound. Any person issued a Tribal fishing assistant identification card shall be deemed to have consented to be bound by the terms of this Act and regulations adopted hereunder, and the card shall so state. All assistants must read and comply with all fishing laws and regulations.
- D. Possession. The card must be on the holder's person, or within the immediate control of the holder, during all such times as he or she is exercising his or her assistance privileges to a Tribal fisher in the Tribal fishery pursuant to this Act, or pursuant to the regulations adopted hereunder; and must be presented to any Tribal, state or federal enforcement officer upon request.
- E. Transfer or Loan. It is unlawful for the holder of a Tribal fishing assistant identification card to transfer that card to another person for use by that person. It is also unlawful to use or attempt to use a card not specifically issued to that person.
- F. Reporting of Loss. If a Tribal fishing assistant identification card is lost, the holder must report his loss to the Tribe within forty-eight (48) hours from the time of loss.

(Res. 99-03 (part))

**7.16.080 Sale or purchase by Tribal fishers or Tribal Council.**

- A. Sale by Tribal Fisher. The original sale to a bona fide wholesale or retail buyer of any resource taken from the Tribal fishery must be by, or on behalf of the Tribal fisher catching the resource, or by the Tribal Council. Only an authorized Tribal fisher may make such sale.
- B. Authority to Forbid Sale to Buyers. The Tribal Council shall have the right, upon just cause, to forbid Tribal fishers from selling fishery resources to designated buyers.
- C. Harvester Fish Tickets. All persons exercising the Treaty shellfishing rights of the Squaxin Island Tribe shall, upon delivery and sale of any fishery resource obtained by any means in a Treaty protected fishery on or off the Squaxin Island Indian Reservation to any purchaser, fill out a Treaty Indian fish receiving ticket, whose form shall be prescribed by the Squaxin Island Tribal Council or other lawful authority.
- D. Presumption of Knowledge and Certification. It shall be conclusively presumed that the Tribal fisher and/or Tribal buyer knows and has read the contents of the completed ticket and certifies and acknowledges that the statements on the ticket are true.

(Res. 99-03 (part))

(Res. No. 11-18, § 5, 3-24-11)

**7.16.090 Subsistence and ceremonial fisheries.**

- A. Persons Authorized. Any member of the Squaxin Island Tribe, who is otherwise authorized to engage in the Tribal fishery pursuant to this Act, may conduct a subsistence or ceremonial fishery upon any species of inter-tidal shellfish during the Tribal open commercial season for that species.
- B. Harvest During Opening. Subsistence or ceremonial harvest may occur during the Tribal open commercial season for that species, provided, however, that the amount taken may count against the harvester's overall quota, if an individual fisher's quota is in use for that specific species.

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- C. Harvest During Closure. Tribal fishers may conduct a subsistence or ceremonial fishery during the closed season, or during the closed periods of the commercial fishing season, only upon the issuance of an emergency regulation authorizing such fishery. The Tribal Council shall encourage Tribal fishers to conduct their subsistence or ceremonial fisheries during the open commercial fishing season, and shall allow subsistence or ceremonial fisheries during the closed season, or during closed periods of the commercial fishing season, only on a very limited basis.
- D. Assistance. In conducting a subsistence or ceremonial fishery during a closed period, Tribal members may be assisted only by authorized Tribal fishers or by assistants in accordance with this chapter.
- E. Harvest Limits. Daily permits and catch limits may be required by regulation.
- F. Permits. Permits may be required by annual or emergency regulation.
- G. Reports. Within twenty-four (24) hours after engaging in a subsistence or ceremonial fishery, a Tribal fisher must submit a report to the Natural Resources Department detailing the number and species taken from each fishing area during the fishery.
- H. Unlawful Use. It is unlawful to utilize fishery resources taken during any Tribal subsistence or ceremonial fishery for any purpose other than for personal consumption.

(Res. 99-03 (part))

### **7.16.100 Shellfish harvesting equipment.**

- A. Authorized Equipment. To harvest shellfish pursuant to this chapter, harvest equipment shall be limited to one hand-held and manually operated clam fork and/or wet fork. No mechanized equipment may be used.
- B. Assistant Harvest Equipment. A Tribal fisher and his or her assistant(s) may each use manual harvest equipment during a commercial opening.

(Res. 99-03 (part))

### **7.16.110 Prohibitions and penalties.**

- A. No Valid License or Permit. It is unlawful for Tribal members to fish without a validly issued license or permit in an open shellfishing area. This provision does not apply to Tribal fishers simply failing to possess on their person their validly issued license or permit. Violation of this provision is a Class C penalty.
- B. Fishing in Closed Area. It is unlawful for a Tribal member to fish in an area not validly opened by tribal regulation. Violation of this provision is a Class C penalty.
- C. Failure to Possess Permit. It is unlawful for a Tribal fisher to participate in an open fishery without possession on their person, his or her validly issued fishing identification. Violation of this provision is a Class D penalty.
- D. Receiving Unauthorized Assistance. It is unlawful for a Tribal fisher to receive assistance by any person other than another Tribal fisher or a family assistant. Violation of this provision is a Class C penalty.
- E. Providing Unauthorized Assistance. It is unlawful to assist any Tribal fisher without a validly issued license and assistant identification. This provision does not apply to a Tribal Fisher or authorized assistant simply failing to possess on their person their validly issued identification. Violation of this provision is a Class D penalty.
- F. Failure to Possess Assistant Identification. It is unlawful for a family assistant to assist any Tribal fisher without possessing on their person, their validly issued identification. Violation of this provision is a Class D Penalty.

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- G. Unauthorized Harvest Equipment. It is unlawful to fish with gear which does not conform to the types of shellfish harvesting equipment allowed under this Act or regulations promulgated hereunder. Violation of this provision is a Class D penalty.
- H. Refusal to Produce Identification. It is unlawful to refuse to produce fishing identification to authorized Tribal, state or federal enforcement officials. Violation of this provision is a Class C penalty.
- I. Use of Another's Identification. It is unlawful for a person to use or attempt to use a Tribal fishing identification card which was not issued to that individual. Violation of this provision is a Class C penalty.
- J. Sale Without Identification. It is unlawful to sell shellfish without proper fishing identification. Violation of this provision is a Class D penalty.
- K. Failure to Report Loss of Identification. It is unlawful for a Tribal fisher or authorized assistant to fail to report the loss of fishing identification within forty-eight (48) hours from the time its loss was noticed. Violation of this provision is a Class D penalty.
- L. Failure to Provide Information. It is unlawful to fail to provide statistical information within the time period required by regulation. Violation of this provision is a Class D penalty.
- M. Sale to Unauthorized Buyers. It is unlawful for a Tribal fisher to sell shellfish to unauthorized buyers. Violation of this provision is a Class D penalty.
- N. Fisher Failure to Fill Out Fish Tickets. It is unlawful for Tribal fishers to improperly fill out fish tickets. Violation of this provision is a Class D penalty.
- O. Subsistence or Ceremonial Fishery Without Permit. It is unlawful for Tribal members to engage in a subsistence or ceremonial fishery without a ceremonial or subsistence permit, if such permit is required under annual or emergency regulation. Violation of this provision is a Class D penalty.
- P. Exceeding Catch or Bag Limits. It is unlawful for Tribal members to fish in excess of catch or bag limits if such limits are required under annual or emergency regulation. Violation of this provision is a Class D penalty.
- Q. Failure to Report Ceremonial or Subsistence Harvest. It is unlawful for Tribal members to fail to report subsistence or ceremonial shellfish harvest within the time frame required by annual or emergency regulation. Violation of this provision is a Class D penalty.
- R. Nonceremonial or Nonsubsistence Use. It is unlawful for Tribal members to use shellfish resources harvested for ceremonial or subsistence purposes for nonceremonial or nonsubsistence purposes. Violation of this provision is a Class C penalty.
- S. Unauthorized Sale of Test Fishery Resources. It is unlawful for Tribal members to sell shellfish caught in a test fishery without authorization either issued by the Squaxin Island Natural Resources Department in writing, or under emergency regulation. Violation of this provision is a Class C penalty.
- T. Animals on Beaches During Commercial Openings Prohibited. It is unlawful for Tribal members or assistants to allow animals they own or are in their possession on any beach opened for commercial shellfish harvest. Violation of this provision is a Class D penalty.
- U. No Mechanized Vehicles. It is unlawful for Tribal members or assistants to use or store any motorized vehicles on any beach utilized by the Tribe. This excludes vehicles with special use permits issued under other regulation and boats. Violation of this provision is a Class C penalty.

(Res. 99-03 (part))

(Res. No. 11-18, § 6, 3-24-11)

### **Chapter 7.18 COMMERCIAL FISH BUYERS [\[1\]](#)**

#### **Sections:**

[7.18.010 Purpose and legislative findings.](#)

[7.18.020 Definitions.](#)

[7.18.030 Jurisdiction.](#)

[7.18.040 Prior ordinances and resolutions.](#)

[7.18.050 Sovereign immunity.](#)

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[7.18.070 General buyer duties.](#)

[7.18.080 Buyer duties regarding Treaty Indian Fish Receiving Tickets.](#)

[7.18.090 Fees.](#)

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[7.18.110 License and registration applications.](#)

[7.18.120 Issued licenses and approved registrations.](#)

[7.18.130 License and registration renewals.](#)

[7.18.140 License and registration suspensions, revocations, conditioning or waivers.](#)

[7.18.150 Shellfish buyer stations.](#)

[7.18.160 Fish buyer vessels.](#)

[7.18.170 Fish buyer taxes.](#)

[7.18.180 Violations.](#)

[7.18.190 Appeals.](#)

**7.18.010 Purpose and legislative findings.**

- A. The Tribal Council makes the following findings, and directs that this chapter be interpreted and understood in a manner that is consistent with these findings:
1. Tribal ancestors and other Indians at Treaty time engaged in substantial trade with Indians and non-Indians, particularly as to fish, over a large geographic area that extended beyond what were later determined to be Squaxin usual and accustomed grounds and stations.

Drafter's comment: See definition of "Tribal fishing areas" in § 7.04.050 of the Natural Resources Management Act, which is defined as "all places and stations reserved to the Tribe in the Treaty of Medicine Creek, 1854, as adjudicated by the United States District Court for the Western District of Washington as "usual and accustomed grounds and stations of the Squaxin Island Tribe," in the litigation known as United States v. Washington, Civil No. 9213, which includes but is not limited to the fresh and marine waters of Southern Puget Sound north to the Tacoma Narrows.

2. The Tribe and other treaty tribes have expansive regulatory authority over commercial activities involving treaty fish, including, but not limited to harvesting, transporting, processing, receiving for shipment, offering for sale or barter, purchasing or attempting to purchase, or reselling fish

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(as defined in this chapter), vessel registration, and traveling to and from such activities, all irrespective of the location of the harvest or transaction.

3. The Tribe encourages commercial activities involving treaty fish so as to benefit and perpetuate the economy and culture of the Tribal community.
4. Tribal harvesters and buyers should properly document and timely report commercial transactions on fish receiving tickets so that the Tribe can effectively co-manage its fisheries, and regulate commercial activities.
5. Tribal fisheries and inter-governmental relationships and regulation will benefit by the Tribe's entering into cooperative relationships with tribal and other governments to coordinate and enforce regulation of commercial activities involving treaty fish, and to resolve jurisdictional issues. The Tribe will strive to assist other tribes' efforts to implement and enforce similar tribal laws to the extent that there is no inconsistency with the Act or other Tribal laws.

Drafter's comment: In March 2013, the Tribe and WDFW entered into a five-year Memorandum of Agreement regarding commercial fish transactions that covers activities of Squaxin buyers.

6. The Tribe, by this chapter, does not intend to regulate or alter: 1) agreements between licensed buyers and sellers, such as to price; 2) non-commercial activities involving treaty fish; 3) activities involving non-treaty fish; or 4) health-related requirements, including shellfish sanitation.
  7. Absent a mutually agreed conservation purpose, state regulation of activities described in this chapter interferes with the treaty fishing right.
- B. The purposes of this chapter are, consistent with the Tribal Council's findings and policy directives, to broadly interpret, implement and regulate the treaty fishing right as to commercial activities; and the Tribe's sovereign rights as related to commercial activities involving non-treaty fish that occur on the Reservation.
- C. This chapter is not adopted for conservation purposes; rather, it is adopted to further management and enforcement objectives. To the extent that the conservation presumption expressed in *State v. Williams*, 898 F.2d 727 (9th Cir. 1990), is applied to this chapter, the Tribe affirmatively rejects such a presumption.

(Res. No. 13-76, 10-24-13)

### **7.18.020 Definitions.**

The following terms when used in this chapter shall have the following meanings. These terms are in addition to and/or supersede those found in Section 7.04.050 of the Squaxin Island Natural Resources Management Act, Chapter 7.04:

"Act" means the Squaxin Island Natural Resources Management Act, Chapter 7.04.

"Applicant" means a person or entity that applies for a license under this chapter.

"Buyer" means a person who purchases, for commercial purposes, treaty fish from the harvester. "Squaxin buyer" means a buyer who is an enrolled Squaxin member or his or her majority-owned business, or a buyer that is a business majority-owned by the Tribe. "Non-Squaxin buyer" means buyers other than Squaxin buyers who purchase treaty fish from Squaxin harvesters.

"Buyer's card" means the plastic embossed card that the department annually issues to each Squaxin buyer engaged in buying activities for him or herself or for a business. A buyer's card is proof of a license.

"Chapter" means this Chapter 7.18.

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"Commercial" means related to or connected with buying, bartering, selling or profiting economically. Commercial does not include: (1) barter among Tribal members; or (2) subsistence or ceremonial harvesting.

"Department" means the Squaxin Island Natural Resources Department.

"Director" means the Director of the Squaxin Island Natural Resources Department.

"Harvester" means the tribally-authorized person, assistant or designated harvester who actually catches, or otherwise takes, treaty fish from its natural habitat. "Non-Squaxin harvester" means a harvester exercising the treaty fishing or shellfish harvesting rights of a tribe other than the Squaxin Island Tribe. "Squaxin harvester" or "Tribal harvester" is defined in SITC Section 7.04.050 (i.e., a harvester exercising the Squaxin Island Tribe's Treaty rights).

Drafter's comment: SITC Section 7.04.050 defines "Tribal harvester" (or "authorized tribal harvester") as a tribal member who is authorized to fish or harvest finfish, shellfish or aquatic resources pursuant to this Act.

"License" or "licensed" means a Squaxin buyer's license issued by the department under this chapter.

"Registration" means a Non-Squaxin buyer's registration with the department.

"Reservation" means the Squaxin Island Reservation.

"Treaty fish" means finfish, shellfish and other aquatic or marine resources that are harvested pursuant to a treaty fishing right, and products made from these resources. "Treaty fish" are either "Squaxin treaty fish," meaning that they were harvested by a Squaxin Island Tribal harvester under the Treaty of Medicine Creek, or "Non-Squaxin treaty fish," meaning that they were harvested by a Non-Squaxin harvester.

"Treaty tribe(s)" means a tribe that has treaty fishing rights within the case area of United States v. Washington or United States v. Oregon.

"Tribe" or "Tribal," when capitalized, means the Squaxin Island Tribe.

(Res. No. 13-76, 10-24-13)

### **7.18.030 Jurisdiction.**

- A. In addition and complementary to the jurisdiction outlined in Section 7.04.030 of this title, the Tribe has jurisdiction over the following, regardless of where the activities occur or the regulated persons are located:
1. Commercial activities involving Squaxin treaty fish;
  2. Squaxin buyers' commercial activities involving Non-Squaxin treaty fish.
  3. Commercial activities involving non-treaty fish that occur within the exterior boundaries of the Squaxin Island Tribe's Reservation.

Drafter's comment: Section 7.04.030 provides:

A. Persons Applied. The provisions of this Act shall be applicable to all members of the Squaxin Island Tribe, and to any other person whenever such person is either acting under authority of the Squaxin Island Tribe of Indians or acting upon property or treaty resources within the jurisdiction of the Squaxin Island Tribe, including its usual and accustomed fishing grounds and stations, ceded and/or traditional areas. To the greatest extent possible, property

within the jurisdiction of the Squaxin Island Tribe shall be construed to include all lands within the Tribe's traditional areas and all other lands owned by the Tribe in fee or held in trust on behalf of the Tribe or its members.

B. **Subjects Applied.** This Act shall apply to the full extent of the sovereign jurisdiction of the Squaxin Island Indian Tribe; and shall apply to all agreements or other cooperative arrangements entered into by the Squaxin Island Tribe which are designed to provide access to available natural resources and to provide effective natural resource management. The Tribal Council may enter into agreements or other cooperative arrangements that supersede this Act.

C. **Deemed to Consent.** Any person acting under Tribal authority, or entering upon property within the jurisdiction of the Squaxin Island Tribe, shall be deemed thereby to have consented to the following:

1. To be bound by the terms of this Act;
2. To the exercise of civil jurisdiction by the Squaxin Island Tribal Court over said person in legal actions arising pursuant to this Act; and
3. To detainment, service of summons and process, and search and seizure, in conjunction with legal actions arising pursuant to this Act.

B. The Tribal Court has limited jurisdiction over actions arising under this chapter pursuant to Squaxin Tribal Court Code Chapter 4.04.

(Res. No. 13-76, 10-24-13)

#### **7.18.040 Prior ordinances and resolutions.**

This chapter supersedes and replaces any resolutions or ordinances, or portions thereof, that directly conflict with this chapter.

Drafter's comment: No fish buyer-related resolutions appear in the Code's Comparative Table and Disposition List. Certain buyer-related provisions in the Natural Resources Code have been deleted or modified where they were either confusing or inconsistent with this chapter. See Resolution No. 11-18.

#### **7.18.050 Sovereign immunity.**

Nothing in this chapter shall be construed as a waiver of the sovereign immunity of the Tribe, or of its enterprises, agents, employees or officials, except that there is a limited waiver only for the purpose of challenging a final decision by the Director in Tribal Court in accordance with the terms of Section 7.18.190.

(Res. No. 13-76, 10-24-13)

#### **7.18.060 Effective date.**

This chapter shall become effective on April 1, 2011.

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(Res. No. 13-76, 10-24-13)

### 7.18.070 General buyer duties.

- A. Squaxin buyers purchasing treaty fish for commercial purposes shall be licensed under this chapter.
- B. Non-Squaxin buyers of Squaxin treaty fish must register with the department. In order not to discourage commercial activities:
  - 1. The department may waive or postpone seeking some or all monetary requirements that this chapter imposes upon the Non-Squaxin buyer (e.g., registration fee, fish buyer tax, bond), including for the reason that he or she is currently maintaining a state buyer's license. The Tribe may later seek such monies from the Non-Squaxin buyer, particularly if the Tribe directly or indirectly challenges the validity of the state requirements and seeks reimbursement.
  - 2. A Non-Squaxin buyer may engage in a one-time purchase of Squaxin treaty fish from a Squaxin harvester without registering with the department, as long as such buyer at his or her first opportunity after the transaction promptly registers. Otherwise, Squaxin fishers shall not sell treaty fish to a Non-Squaxin buyer that is not registered with the department.
- C. Buyers shall require that harvesters present their Treaty Indian fishing identification cards before completing any commercial activity involving treaty fish.
- D. Licensed Squaxin buyers shall carry their buyer's cards on their person, and Non-Squaxin buyers shall carry their proofs of registration on their person, whenever engaged in treaty fish buying activities, and shall make them available for immediate inspection upon request by harvesters, or authorized governmental natural resources employees or enforcement officers.
- E. The department may prohibit Squaxin harvesters from selling their treaty fish to specified buyers who fail to comply with the requirements of this chapter.

(Res. No. 13-76, 10-24-13)

### 7.18.080 Buyer duties regarding Treaty Indian Fish Receiving Tickets.

- A. Licensed and registered buyers shall:
  - 1. Completely and accurately report all commercial sales of treaty fish on fish receiving tickets, and return fish receiving tickets to the department within four working days after the date of the purchase;
  - 2. Imprint on the fish receiving ticket both: (a) the Squaxin or Non-Squaxin harvester's embossed Treaty Indian Fishing Identification card; (b) his or her Squaxin buyer's card or, for Non-Squaxin buyers, his or her WDFW and/or other Treaty Tribe's buyer's card as applicable; and
  - 3. Provide harvest management statistics from their fish receiving tickets upon request by the department.

(Res. No. 13-76, 10-24-13)

### 7.18.090 Fees.

Annual fees for registrations and licenses shall be in amount(s) established by the department.

### 7.18.100 Bonds.

- A. The purpose of a bond is to ensure that the Tribe is paid any taxes, fees, penalties and/or interest required by this chapter.

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- B. Each Non-Squaxin buyer shall be required to post a bond in an amount to be recommended by the department and approved by Tribal Council, and such bond shall be conditioned upon prompt payment of obligations to the Tribe. Squaxin buyers shall not be required to pay or obtain a bond.
- C. The bond may be in the form of any of the following:
  - 1. Cash or money order paid to the department;
  - 2. A surety bond naming the department as the obligee and expiring no sooner than ninety (90) days after the license period;
  - 3. An irrevocable standby letter of credit naming the department as the beneficiary; or
  - 4. A savings account assignment naming the department as the assignee. The terms of the assignment must specify a perpetual time period until the buyer's bank receives written notification from the department to terminate the assignment.
- D. The director may approve an alternative approach, including but not limited to collateral, or daily or weekly payments, as long as the alternative approach meets Squaxin economic and fisheries objectives.
- E. The director may take action upon the bond or alternative approach upon a final determination of required taxes, fees, penalties and/or interest owed to the Tribe.
- F. The bond shall be returned or released when the Non-Squaxin buyer informs the Tribe in writing that it no longer wishes to be registered as a buyer with the Department, and after the director determines that all required taxes, fees, penalties and/or interest owed the Tribe have been paid.

(Res. No. 13-76, 10-24-13)

### **7.18.110 License and registration applications.**

- A. Applicants shall submit their applications to the department on forms prepared by the department. Each business shall submit one application. All information on the applications shall be complete and accurate.
- B. The license (Squaxin buyers) and registration (Non-Squaxin buyers) applications shall require at least:
  - 1. The name, address, phone number and e-mail address of the business, or individual if not a business;
  - 2. The names, addresses, phone numbers and e-mail addresses of the business owner(s) and operator(s);
  - 3. The name, address, phone number and e-mail address of each employee of the business who will engage in buying activities for the business;
  - 4. The make, year and registration of each vessel and/or delivery vehicle involved in the applicant's treaty fish buying activities; and
  - 5. Signatures of the individual or business owner(s) and each employee who seeks a buyer's card [or registration?].
- C. License and registration applications shall require that applicants, including any employees, consent to the following:
  - 1. To comply with and be subject to applicable Squaxin jurisdiction and laws, including:
    - a. To Tribal authority to suspend, revoke or condition a buyer's license or registration, or to assess and collect taxes, fees, penalties and/or interest under this chapter, or for unlawfully refusing to submit to Tribal jurisdiction as related to compliance with applicable laws and regulations;

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- b. To Tribal and other governments' inspections of licensed and registered buyers' paperwork, purchases, product, equipment and facilities, including vessels and vehicles.
2. For Non-Squaxin buyers, to remain bonded during and at least ninety (90) days after the registration term, and to allow the Tribe to pursue the bonds for any past due taxes, fees, penalties and/or interest.

(Res. No. 13-76, 10-24-13)

### **7.18.120 Issued licenses and approved registrations.**

- A. A Squaxin buyer's license and buyer's card(s) shall be issued upon receipt of:
  1. A completed license application;
  2. A signed consent agreement; and
  3. Payment of license fees, if applicable.
- B. A Non-Squaxin buyer shall be considered registered upon receipt of:
  1. A completed license application;
  2. Signed consent agreement;
  3. Payment of license fees, if applicable; and
  4. Proof of a bond, if applicable.
- C. Licenses and registrations are effective from April 1 to March 31 of each year and must be annually renewed. The deadline for submitting a license or registration application is March 31 of each year.
- D. Buyer's cards issued to Squaxin buyers shall state to the effect, "No State-Issued Buyer's License Is Required Regardless of Buying Location."
- E. The department shall make available and keep current a list of all licensed Squaxin buyers and registered Non-Squaxin buyers, which shall be posted at the Department and shared with Squaxin Enforcement officers, and other governments upon request.
- F. If the Squaxin buyer's application is approved, the department shall issue a separate plastic embossed buyer's card to each registered employee-buyer.

(Res. No. 13-76, 10-24-13)

### **7.18.130 License and registration renewals.**

- A. The department shall renew Squaxin buyer's licenses and buyer's cards, and Non-Squaxin buyer registrations, if the applicant submits the information required in subsections 7.18.110(A) and (B).
- B. No Squaxin buyer shall be issued a license, and no Non-Squaxin buyer's registration shall be considered approved, until any monies owing from the previous year are paid, or an agreement on clearing the balance owed has been reached between the buyer and the department.
- C. The director has discretion to refuse to renew a license or registration based upon the applicant's history of noncompliance with the requirements of this chapter or other tribes' commercial treaty fish buyer laws.

(Res. No. 13-76, 10-24-13)

**7.18.140 License and registration suspensions, revocations, conditioning or waivers.**

- A. The director for cause may suspend, revoke or condition a buyer's license or registration and/or assess a penalty against the buyer, according to the procedures described in this chapter. The director has discretion to choose the remedy or waive it, depending upon the severity of the violation.
- B. Any suspension, revocation, conditioning or penalty must be preceded by the director's providing an initial written warning to the buyer. The warning shall describe the violation and how to correct the problem. The director shall grant the buyer at least fourteen (14) days from the date of mailing to correct the problem. If the buyer fails to take appropriate corrective action, or if a similar violation occurs again, the director may suspend, revoke or condition a buyer's license or registration and/or assess a penalty against the buyer, after the director provides the buyer with a final written decision.
- C. The director shall post at the department the names of any buyers whose licenses or registrations are suspended, revoked or conditioned, or against whom penalties are assessed, and shall share a copy with the Tribal Enforcement officers and other governmental enforcement officers upon request.
- D. A fee may be waived or postponed only by Tribal Council action.

(Res. No. 13-76, 10-24-13)

**7.18.150 Shellfish buyer stations.**

- A. Buyers' purchases of Squaxin Treaty shellfish shall occur at a certified weigh-out station(s) on or adjacent to the harvested beach during a Tribal dig.
- B. At the station(s), the buyer shall weigh the shellfish provided to it, and attach a unique identifier to the weighed product. Buyers shall not possess shellfish that lacks the unique identifier.
- C. The buyer and seller shall confirm the quality and quantity of the shellfish at the weigh-out station, and that the bag contains nothing but shellfish.

(Res. No. 13-76, 10-24-13)

**7.18.160 Fish buyer vessels.**

The Tribe has exclusive jurisdiction to register vessels that are actually used for treaty fish buying by Squaxin buyers, regardless of:

- A. Whether the vessels are used within or outside Tribal fishing areas;
- B. Whether the vessels are also used for activities related to Non-Squaxin treaty fish; and
- C. Whether the vessels are also used for activities completely unrelated to Treaty or Non-Squaxin treaty fish.

(Res. No. 13-76, 10-24-13)

**7.18.170 Fish buyer taxes.**

- A. Licensed and registered buyers shall pay any business activity tax, also known as the fish buyer's tax, which is imposed from time to time by Council resolution.
- B. The fish buyer's tax shall be equal to the gross purchase price of the fish at time of landing multiplied by a specified tax percentage rate.
- C. The buyer shall withhold the fish buyer's tax on the gross sale price of fish and shellfish purchased from Squaxin harvesters, and shall record the tax on the fish receiving ticket.

- D. The buyer shall transfer the tax withheld to the department no later than the last day of the month following the taxable transaction(s), e.g., the department must receive the April tax by May 30th. Delinquent taxes shall bear interest at the rate of one and one-half percent compounded monthly for each month or portion thereof for which the buyer is delinquent.
- E. The department is authorized to seek collection of a delinquent tax from the bond required by Section 7.18.100.
- F. The funds raised by the fish buyer's tax shall be used in the tribal fisheries program for fisheries management, regulation, enhancement, or such other fishery or treaty rights-related purposes as determined by the Tribal Council in its discretion.

(Res. No. 13-76, 10-24-13)

### **7.18.180 Violations.**

Violations of this chapter are civil in nature. Each violation of this chapter is a Class D penalty under Chapter 7.08.

Drafter's comment: Class D penalties are as follows, per § 7.08.030:

Class D Penalties. Class D penalties shall be civil penalties and shall be punishable by:

1. For the first violation, a fine of one hundred fifty dollars (\$150.00).
2. For the second violation, a fine of two hundred fifty dollars (\$250.00).
3. For the third or subsequent violation, by a fine of five hundred dollars (\$500.00).

(Res. No. 13-76, 10-24-13)

### **7.18.190 Appeals.**

A buyer or harvester may appeal a final decision of the director by filing a complaint with Tribal Court under the rules prescribed in Chapter 4.24 of this code.

(Res. No. 13-76, 10-24-13)

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FOOTNOTE(S):

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**Editor's note**— Res. No. 13-76, adopted October 24, 2013, amended Chapter 7.18 in its entirety to read as herein set out. Former Chapter 7.18, §§ 7.18.010—7.18.190, pertained to similar material, and derived from Res. No. 11-18, adopted March 24, 2011. ([Back](#))

## **Chapter 7.20 TREATY SUB-TIDAL AQUATIC RESOURCES**

**Sections:**

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[7.20.120 Chapter prohibitions and penalties.](#)

#### **7.20.010 Chapter definitions.**

As used in this chapter, the following terms are defined in this section:

"Diver safety plan" means the overall plan adopted to govern the safety standards of the sub-tidal aquatic fishery, in compliance with this Act and the federal Occupation Safety and Health Act.

"Individual fishers quota" or "IFQ" means a share or percentage of a harvestable total of a natural resource, held by an individual harvester.

"Technical instructor" means a person with whom the Tribe has contracted to perform instruction in the art of sub-tidal harvesting.

(Res. 99-03 (part))

#### **7.20.020 Authorized fishers.**

- A. Eighteen Years and Older. Only enrolled members of the Squaxin Island Tribe, eighteen (18) years of age and older, are authorized to exercise Tribal sub-tidal aquatic rights commercially pursuant to this Act, and annual and emergency regulations promulgated hereunder.
- B. Compliance With Diver Safety Plan. A Tribal member must successfully meet the safety requirements listed in the Squaxin Island diver safety plan before exercising Tribal sub-tidal aquatic rights, commercially or otherwise.

(Res. 99-03 (part))

#### **7.20.030 Technical instructors.**

- A. Authority. The Squaxin Island Natural Resources Department may allow, as part of the Squaxin Island diver safety plan, on-site technical instruction from a person who is not an authorized Tribal fisher. The technical instructor will be limited to instruction (including demonstrative instruction) in one or more aspects of commercial sub-tidal harvest and that such instruction will be necessary to enhance the fishing skills of the Tribal fisher in a manner which will render him or her able to

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effectively exercise his or her Treaty fishing rights. Instruction can be provided by no more than two persons at any one time. In the diver safety plan, the Natural Resources Department shall describe:

1. Those aspects of commercial sub-tidal harvesting for which technical instruction may be provided;
  2. The names of those persons authorized to provide such on-site instruction; and
  3. The length of time for which such instruction may be provided.
- B. Harvester Limitation. Only one person at a time may dig or harvest sub-tidally.
- C. One Gear Set Limitation. Only one set of authorized harvest gear (i.e., one hose and stinger when geoducking) per permit may be used among the Tribal member and his or her assistant(s).
- D. Presence of Tribal Fisher Required. A person authorized to instruct in the Tribal sub-tidal fishery may do so only when he or she is in the immediate presence of the authorized Tribal fisher he or she is authorized to instruct; and the authorized fisher must also ensure that the instructor is so accompanied.
- E. Technical Instructor Compensation. The technical instructor's compensation must be a flat fee negotiated prior to harvest. The fee paid to the instructor must be reasonable and may not be the total or percentage of the sale of resources harvested during the duration of the technical instruction.

(Res. 99-03 (part))

### **7.20.040 Family assistance.**

- A. Authority and Limitations. An authorized Tribal fisher must accompany the family assistant while he or she is harvesting under the authority of the card and/or permit of the Squaxin Island Tribe provided the following:
1. Only one person, either the Tribal member or family assistant, may engage in sub-tidal harvesting at one time. The nonharvesting authorized Tribal fisher must be on the boat while harvest is occurring by the family assistant.
  2. Prior to the family assistant engaging in harvest, the authorized Tribal fisher must have engaged in at least one hour of harvest on the same harvest day.
- B. License Fee. A Tribal fishing identification card will be issued to a family assistant of an authorized Tribal fisher only upon payment of a licensing fee. The amount of such fee shall be determined on an annual basis by the Tribal Council.
- C. Certification of Family Assistant. The family assistant must receive the same certifications required of authorized Tribal fishers prior to diving. The family assistant prior to participation in the fishery must pay costs of certification (i.e., scuba and surface supplied air training).
- D. Responsibility. Tribal fishers will be responsible for the actions of their family assistants taken pursuant to this section, including harvesting without a properly issued identification card and/or permit and fishing without being accompanied by the authorized Tribal fisher.
- E. Judicial Loss of Privileges. In the event that a family assistant is cited and found guilty, or fails to appear in Tribal Court for a violation of this Act, that individual will immediately lose all fishing privileges.

(Res. 99-03 (part))

### **7.20.050 Tribal fisher identification.**

- A. Department Directed to Issue. Prior to exercising the right to engage in Tribal fisheries pursuant to the terms of this Act, a Tribal member must first obtain, from the Squaxin Island Natural Resources Department, a Treaty Indian fishing identification card. This identification card shall be certified by

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the Tribal Chairperson and shall include the name, Tribal affiliation and assigned number of the holder, together with a photograph of the holder. This card shall be the property of the Tribe. The Tribal Council may authorize the use of temporary identification pending the issuance of the Tribal fishing identification card.

- B. Possession. The card must be on the holder's person, or within the immediate control of the holder, during all times he or she is exercising his or her right to fish pursuant to this Act, or pursuant to the regulations adopted hereunder; and must be presented to any authorized enforcement officer upon request. It is unlawful for the holder of a Tribal fishing identification card to transfer that card to another person for use by that person.
- C. Presentation. An authorized Tribal fisher must present his or her Tribal fishing identification card to the buyer in the sale of any sub-tidal resource harvested or otherwise taken pursuant to this Act.
- D. Reporting of Loss. If a Treaty Indian fishing identification card is lost, the holder must report its loss to the Tribe within forty-eight (48) hours from the time of loss. Upon the loss of a card, the holder shall be responsible for the payment of the Tribal fish tax on the proceeds from the sale of any fish sold pursuant to that card prior to the reporting of the loss.

(Res. 99-03 (part))

### **7.20.060 Assistant identification.**

- A. Department Directed to Issue. Prior to exercising the right to assist a Tribal sub-tidal fisher in the Tribal fishery pursuant to this chapter, assistants must first obtain a Tribal fishing assistant identification card.
- B. Contents. This identification card shall be certified by the Tribal Chairperson and shall include the name and if applicable, Tribal affiliation and enrollment number of the holder, together with a photograph of the holder.
- C. Consent to be Bound. Any person issued a Tribal fishing assistant identification card shall be deemed to have consented to be bound by the terms of this Act and regulations adopted hereunder, and the card shall so state. All assistants must read and comply with all fishing laws and regulations.
- D. Possession. The card must be on the holder's person, or within the immediate control of the holder, during all such times as he or she is exercising his or her assistance privileges to a Tribal fisher in the Tribal fishery pursuant to this Act, or pursuant to the regulations adopted hereunder; and must be presented to any Tribal, state or federal enforcement officer upon request.
- E. Transfer or Loan. It is unlawful for the holder of an assistant identification card to transfer that card to another person for use by that person. It is further unlawful to use or attempt to use a card not issued to that person.
- F. Reporting of Loss. If a Tribal fishing assistant identification card is lost, the holder must report his loss to the Tribe within forty-eight (48) hours from the time of loss.

(Res. 99-03 (part))

### **7.20.070 Sale or purchase by Tribal fishers or Tribal Council.**

- A. Sale by Tribal Fisher. The original sale to a bona fide wholesale or retail buyer of any sub-tidal resource taken in the Tribal fishery must be by, or on behalf of the Tribal fisher catching the resource, or by the Tribal Council. Only an authorized Tribal fisher may make such sale.
- B. Authority to Forbid Sale to Buyer. The Tribal Council shall have the right, upon just cause, to forbid Tribal fishers from selling fishery resources to designated buyers.

(Res. 99-03 (part))

(Res. No. 11-18, § 8, 3-24-11)

**7.20.080 Subsistence and ceremonial fisheries.**

- A. Persons Authorized. Any member of the Squaxin Island Tribe, who is otherwise authorized to engage in the Tribal fishery pursuant to this Act, may conduct a subsistence or ceremonial fishery upon any species of sub-tidal resources during the open commercial season for that species.
- B. Harvest During Opening. Subsistence or ceremonial harvest may occur during the Tribal open commercial season for that species, provided, however, that the amount taken may count against the harvester's overall quota, if an individual fisher's quota is in use for that specific species.
- C. Harvest During Closure. Tribal fishers may conduct a subsistence or ceremonial fishery during the closed season, or during the closed periods of the Tribal commercial fishing season, only upon the issuance of an emergency regulation authorizing such fishery. The Tribal Council shall encourage Tribal fishers to conduct their subsistence or ceremonial fisheries during the Tribal open commercial fishing season, and shall allow subsistence or ceremonial fisheries during the closed season, or during closed periods of the Tribal commercial fishing season, only on a very limited basis.
- D. Assistance. In conducting a subsistence or ceremonial fishery during a closed period, Tribal members may be assisted only by authorized Tribal fishers or by assistants in accordance this Chapter.
- E. Harvest Limits. Daily permits and catch limits may be required by regulation.
- F. Permits. Permits may be required by annual or emergency regulation.
- G. Reports. Within twenty-four (24) hours after engaging in a subsistence or ceremonial fishery, a Tribal fisher must submit a report to the Natural Resources Department detailing the number and species taken from each fishing area during the fishery.
- H. Unlawful Use. It is unlawful to utilize fishery resources taken during any Tribal subsistence or ceremonial fishery for any purpose other than for personal consumption.

(Res. 99-03 (part))

**7.20.090 Test fisheries.**

- A. Contracting for Harvesters. The Tribal Council, or the Natural Resources Director, when so authorized by Tribal Council, may contract with one or more Tribal sub-tidal aquatic fishers for the performance of a test fishery. Choice of fishers contracted to conduct test fisheries shall be made by the Tribal Council or the Natural Resources Director when so authorized.
- B. Selection of Harvesters. The selection shall be based upon type of gear utilized by the fisher and the consistency of participation in commercial fishery openings by the fisher.
- C. Timing of Contracting. The contracting of Tribal fishers to conduct test fisheries in each specific fishing area may be accomplished before the fishing season commences to insure adequate performance of test fisheries through long standing notification of participation.
- D. Alternate Harvesters. Alternate test fishers may also be chosen before the fishing season to participate in test fisheries in the event that primary test fishers chosen are unable to perform a specific test fishery.
- E. Criteria. Test fisheries may be conducted only on a limited basis, and only upon the existence of technical or biological evidence that reasonably indicates that such a fishery will be necessary to effectuate the purpose of this Act.
- F. Information Sharing With Other Agencies. Upon compilation of the results of the test fishery, information regarding such results shall be made available to the proper agencies upon their request.
- G. Compensation. Fishers who contract with the Tribe to conduct a test fishery shall be compensated for their commitment of time, labor and equipment according to an established scale to be set by the Tribal Council.

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(Res. 99-03 (part))

### **7.20.100 Gear identification and safety requirements.**

- A. Boat Identification. No boat, ship or other nautical vessel may be utilized as a diving platform or to haul product in the Tribal fishery unless it displays identification. The type of identification shall be promulgated in the annual regulations.
- B. Proof of Registered Ownership. Any vessel participating in the fishery must have proof of registered ownership demonstrating it belongs to a Squaxin Island Tribal member.
- C. Gear Identification. No fishing gear utilized in the Tribal fishery may be left unattended unless such gear is marked with authorized identification. The type of identification shall be promulgated in the annual regulations.

(Res. 99-03 (part))

### **7.20.110 Fishing vessel, gear and equipment; catch agreement.**

- A. Use of Non-Indian Gear. It is unlawful for any Tribal member to work for or as the operator of any non-Indian owned fishing gear or equipment in Squaxin Island usual and accustomed areas, in order to take sub-tidal aquatic resources pursuant to this Act for the primary economic gain of such non-Indian person.
- B. Share of Catch. It is further unlawful for any Tribal member to participate in any shared catch or percentage of catch agreement with a non-Indian person in exchange for the use of any fishing gear or equipment in the Tribal fishery.
- C. Ownership. It is unlawful for any Tribal member to hold less than a one hundred (100) percent ownership interest in the vessel, gear and equipment that he or she uses for Treaty shellfishing, unless (1) he or she shares ownership with another Squaxin Tribal member, or (2) a federally registered lending institution holds a security interest.
- D. Recording Credit Purchase Contracts. Additionally, if after such prior approval from the Squaxin Island Tribal Council is achieved, a copy of the contract, duly signed and notarized must be on file in the Natural Resources Department.
- E. Tribal First Right of Refusal. Further, the conditions of the contract must include a statement awarding the Squaxin Island Tribal Council the right of first refusal in the event of a default on the part of the fisher.

(Res. 99-03 (part))

(Res. No. 12-48, 8-23-12)

### **7.20.120 Chapter prohibitions and penalties.**

- A. No Valid License or Permit. It is unlawful for Tribal members to fish without a validly issued license or permit in an open fishing area. This provision does not apply to Tribal fishers simply failing to possess on their person their validly issued license or permit. Violation of this provision is a Class B penalty.
- B. Fishing in Closed Area. It is unlawful for a Tribal member to fish in an area not validly opened by Tribal regulation. Violation of this provision is a Class B penalty.
- C. Failure to Possess Permit. It is unlawful for a Tribal fisher to participate in an open fishery without possession on their person, his or her validly issued fishing identification. Violation of this provision is a Class C penalty.

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- D. Receiving Unauthorized Assistance. It is unlawful for a Tribal fisher to receive assistance by any person other than another Tribal fisher, a family assistant, or a technical instructor. This provision does not apply to dive tenders. Violation of this provision is a Class B penalty.
- E. Providing Unauthorized Assistance. It is unlawful to assist any Tribal fisher without a validly issued license and assistant identification. This provision does not apply to a Tribal fisher or family assistant simply failing to possess on their person their validly issued identification. Violation of this provision is a Class C penalty.
- F. Failure to Possess Assistant Identification. It is unlawful for a family assistant to assist any Tribal fisher without possessing on their person, their validly issued identification. Violation of this provision is a Class D penalty.
- G. Unauthorized Harvest Equipment. It is unlawful to fish with gear which does not conform to the gear requirements in the annual regulations, emergency regulations and/or dive safety plan. Violation of this provision is a Class D penalty.
- H. Refusal to Produce Identification. It is unlawful to refuse to produce fishing identification to authorized Tribal, state or federal enforcement officials. Violation of this provision is a Class C penalty.
- I. Use of Another's Identification. It is unlawful for a person to use or attempt to use a Tribal fishing identification which was not issued to that individual. Violation of this provision is a Class C penalty.
- J. Sale Without Identification. It is unlawful to sell fish without proper fishing identification. Violation of this provision is a Class D penalty.
- K. Failure to Report Loss of Identification. It is unlawful for a Tribal fisher or family assistant to fail to report the loss of fishing identification within forty-eight (48) hours from the time its loss was noticed. Violation of this provision is a Class D penalty.
- L. Failure to Provide Information. It is unlawful to fail to provide statistical information within the time period required by regulation. Violation of this provision is a Class D penalty.
- M. Sale to Unauthorized Buyers. It is unlawful for a Tribal fisher to sell fish to unauthorized buyers. Violation of this provision is a Class D penalty.
- N. Exceeding Catch or Bag Limits. It is unlawful for Tribal members to fish in excess of catch or bag limits if such limits are required under annual or emergency regulation. Violation of this provision is a Class C penalty.
- O. Failure to Report Ceremonial or Subsistence Harvest. It is unlawful for Tribal members to fail to report subsistence or ceremonial harvest within the time frame required by annual or emergency regulation. Violation of this provision is a Class C penalty.
- P. Nonceremonial or Nonsubsistence Use. It is unlawful for Tribal members to use resources harvested for ceremonial or subsistence purposes for nonceremonial or nonsubsistence purposes. Violation of this provision is a Class B penalty.
- Q. Unauthorized Sale of Test Fishery Resources. It is unlawful for Tribal members to sell fish caught in a test fishery without authorization either issued by the Squaxin Island Natural Resources Department in writing, or under emergency regulation. Violation of this provision is a Class C penalty.
- R. Improperly Marked Vessels. It is unlawful for Tribal members to engage in fishing without properly marked gear or vessels. Violation of this provision is a Class D penalty.
- S. Use of Non-Indian Gear in Tribal Fishery. It is unlawful for a Tribal member to operate non-Indian owned gear or vessels in order to take fish pursuant to this Act for the primary economic gain of such non-Indian. Violation of this provision is a Class C penalty.
- T. Share of Catch With Non-Indians. It is unlawful for a Tribal member to participate in any shared catch or percentage of catch agreement with a non-Indian person in exchange for the use of any fishing gear or vessels. Violation of this provision is a Class C penalty.

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- U. Use of Boat, Gear or Equipment Without One Hundred (100) Percent Ownership Interest. It is unlawful for a Tribal fisher to utilize any boat, gear or equipment in the Tribal fishery in which he or she does not hold a one hundred (100) percent ownership interest, unless (1) he or she shares ownership with another Squaxin Tribal member, or (2) a federally registered lending institution holds a security interest.

Violation of this provision is a Class B penalty.

- V. Failure to Provide First Right of Refusal. It is unlawful for a Tribal member to execute a contract to purchase a Treaty fishing vessel which does not contain provisions for the Tribal Council to have first right of refusal to in the event of a default. Violation of this provision is a Class C penalty.
- W. Harvest in Unauthorized Depths. It is unlawful for a sub-tidal harvester to harvest in waters shallower or deeper than allowed by annual regulations. Violation of this provision is a Class C penalty.
- X. Harvest in Closed Tract Portions. It is unlawful for a sub-tidal harvester to harvest in portions of a tract which have been closed. Violation of this provision is a Class C penalty.

(Res. No. 11-18, § 9, 3-24-11; Res. No. 12-48, 8-23-12)

### Chapter 7.24 TREATY HUNTING

#### Sections:

[7.24.010 Chapter definitions.](#)

[7.24.020 Authorized hunters.](#)

[7.24.030 Nonmember assistance.](#)

[7.24.040 Identification.](#)

[7.24.050 Permits.](#)

[7.24.060 Tags and punchcards.](#)

[7.24.070 Written statement for possession of wildlife taken by another.](#)

[7.24.080 Revocations.](#)

[7.24.090 Production of information to enforcement officers.](#)

[7.24.100 Closed areas.](#)

[7.24.110 Prohibited species.](#)

[7.24.120 Big game firearm restrictions.](#)

[7.24.130 Commercial hunting.](#)

[7.24.140 Prohibitions and penalties.](#)

#### 7.24.010 Chapter definitions.

As used in this chapter, the following terms are defined:

"Exercise of hunting rights" includes, but is not limited to, harvesting any game resources for personal or commercial use, transporting any game resources, offering for sale or barter any game resources, and traveling to and from such activities, purportedly pursuant to Tribal Treaty hunting rights.

"Game" includes all wild land animals and birds covered by this Act and regulations promulgated hereunder.

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"Game management unit" means a state of Washington described geographic area for the purposes of hunting management.

"Hunting activities" and "hunting" include any exercise of Tribal Treaty hunting rights; including, but not limited to, traveling to and from a hunt, stalking game, skinning or otherwise dressing game, and any other effort to kill, injure, trap, capture or harass game.

"Long-term disability" means a disability which makes a Tribal hunter physically unable, not one which makes it simply physically difficult, to hunt for a period of time no shorter than three years.

"Punchcard" means a permit on which several kills may be registered.

"Short-term disability" means a disability which makes a Tribal hunter physically unable, not one which makes it simply physically difficult, to hunt for a period of time no shorter than two months, and no longer than three years.

(Res. 99-03 (part))

### **7.24.020 Authorized hunters.**

Provided that each is in possession of his or her current and valid hunting permit, the following are authorized to exercise or assist in the exercise of Tribal Treaty hunting:

- A. Eighteen Years or Older. Any Tribal member at least eighteen (18) years of age;
- B. Ten to Eighteen Years. A Tribal member of the age from ten (10) to eighteen (18) years, provided that he or she has first completed a firearm safety course and received written parental permission; such persons must be accompanied by an adult at all times while hunting; or
- C. Nonmember Spouse. A nonmember spouse; provided that such person is being accompanied by his or her Tribal member spouse or Tribal member child of ten (10) to eighteen (18) years of age.

(Res. 99-03 (part))

### **7.24.030 Nonmember assistance.**

- A. Nonmember Authorized to Hunt. A nonmember spouse may harvest under the authority of the card and/or permit of the Squaxin Island Tribe, only if he or she is accompanied by his or her member spouse or member children from the age of ten (10) to eighteen (18) years of age.
- B. Tribal Member Responsibility. Tribal members will be responsible for the actions of their nonmember spouses taken pursuant to this section, including hunting without a properly issued identification card and/or permit and hunting without being accompanied by the Tribal member spouse.
- C. Judicial Loss of Privileges. In the event that a spouse is cited and found guilty, or fails to appear in Tribal Court, that individual will immediately lose all Treaty resource harvesting and assistance privileges.

(Res. 99-03 (part))

### **7.24.040 Identification.**

- A. Identification in Possession Required. No Tribal member may hunt or assist in the exercise of Tribal hunting privileges unless she or he has on their person a current Treaty enrollment card and/or Treaty fishing identification card.
- B. Nonmember Spouse Identification Required. A nonmember spouse must have a Tribal spouse photo identification on his or her person.

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(Res. 99-03 (part))

### 7.24.050 Permits.

- A. Permits. No Tribal member may exercise Tribal hunting privileges unless he or she has first obtained and has on their person a valid and current Tribal hunting permit for the particular species being hunted
- B. Deer and Elk Permits Restricted. The annual regulation may allow issuance of elk and deer tags for up to a total of four animals per family annually, providing however, that elk tags shall be limited to two. No person may kill more animals than she or he has been issued tags for.
- C. Ceremonial Hunt Permits Required. A permit may be issued from one to five Tribal members, but only if such permit is to obtain deer or elk for a ceremonial activity. Such a permit shall specify the names of all Tribal members in the hunting group, and the number of animals (not to exceed one per member) which may be taken.
- D. Designated Hunter Permits. An authorized Tribal hunter may transfer a permit issued to them to another authorized Tribal hunter, subject to the following:
  - 1. A hunter who has transferred a permit to a designated hunter must be present when the designated hunter is hunting under the transferred permit, unless the transferring hunter is either an elder, a short-term disabled person, a permanently disabled person, or a single, primary care-giving parent.
  - 2. The Tribal Council and the Natural Resources Department must promulgate regulations regulating the designated hunter program, including processes by which the Squaxin Island Law Enforcement Department is notified regarding who has been issued designated hunter permits.

(Res. 99-03 (part))

### 7.24.060 Tags and punchcards.

- A. Tagging Requirements. Immediately before and during the transport of a game animal for which individual tags are required by annual regulation, or doing anything else with the animal, the hunter shall affix a tag to the carcass; the tag shall be filled out with the information indicating the type of kill, date killed, area in which the animal was taken and the signature of the authorized hunter who killed the animal. The tag must remain with the animal while the edible parts are retained. The tag shall be returned to the Squaxin Island Tribe.
- B. Tagging of Pelts Required. No person shall possess or export the pelts of bobcat, Canadian lynx or river otter, or any part thereof, taken in Washington State without the applicable tag; pelts must be tagged within ten (10) days of the closing of the applicable season.
- C. Return of Tags Required. No new hunting tags shall be issued to a Tribal member until that person has returned to the Natural Resources Department all tags.
- D. Transfer of Tags Prohibited. It is unlawful to transfer, loan to or borrow from, another person any hunting license, permit or tag except in accordance with Section 7.24.050D.
- E. Tag Transfer Under False Pretences. It is unlawful to buy, possess, or attempt to obtain any license, permit, or tag by using information which is known, or should have been known, to be false; or when one's hunting privileges have been revoked or suspended.
- F. Issuance of Tags. The Squaxin Island Natural Resources Department may issue up to one personal and one designated tag at a time. Only one tag may be filled and returned to the Natural Resources Department before the other tag can be used, unless, both the designated hunter and transferring member are together, in which case, both tags may be filled.

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- G. Punchcards for Game Birds, Small Game and Varmints. Each authorized hunter may be issued punchcards for game birds, small game and/or varmints. Bag limits will be set by annual regulation. Punchcards must be in the possession of the Tribal hunter who killed the punchcard species. All punchcards must be returned to the Squaxin Island Tribe in accordance with procedures promulgated in the annual regulations.

(Res. 99-03 (part))

### **7.24.070 Written statement for possession of wildlife taken by another.**

It is unlawful to possess wildlife taken/killed by another person without a written statement of the other person showing the name, address and signature of that hunter; as well as showing the license or tag number, date, county and game management unit where that wildlife was taken.

(Res. 99-03 (part))

### **7.24.080 Revocations.**

Law enforcement shall immediately revoke without a prior hearing the hunting privileges of any person who intentionally or accidentally shoots another person or livestock while hunting under Squaxin Island permit. A hearing before the Council will soon thereafter be provided to review this action, giving the hunter a meaningful opportunity to be heard. The Council shall decide after such hearing whether to keep the privileges revoked for a definite period of time, or to reinstate such privileges to the hunter.

(Res. 99-03 (part))

### **7.24.090 Production of information to enforcement officers.**

It is unlawful to fail to stop for and/or to refuse (not merely fail) to show a hunting license, tag or permit, or refuse to display wildlife taken, when requested to do so by a Tribal, state, or federal wildlife agent or law enforcement officer.

(Res. 99-03 (part))

### **7.24.100 Closed areas.**

The Treaty hunting right only exists for areas specifically opened by the Tribe. It is unlawful to hunt in any area for any species of animal or bird unless a Tribal hunting regulation for hunting of that species has opened that area. No Treaty right exists for areas not opened by Tribal regulation. Any Tribal member hunting closed areas may be prosecuted under Tribal, state and federal law.

(Res. 99-03 (part))

### **7.24.110 Prohibited species.**

- A. Hunting Protected Species Unlawful. It is unlawful to hunt, kill, harass or control any Tribally or federally protected wildlife or endangered species, unless under permit to do so. The annual regulation shall provide a list of protected species. Hunters are still only permitted to hunt specific species opened by Tribal regulation.
- B. Federally Issued Permits. If the Tribal Council issues authorization, as noted above, for hunting of any protected or endangered wildlife, the Tribe must first obtain an applicable U.S. Fish and Wildlife permit.

(Res. 99-03 (part))

**7.24.120 Big game firearm restrictions.**

The Squaxin Island Tribal Council shall promulgate annual regulations which regulate the types of weapons that may be used for hunting pursuant to this chapter, subject to the following limitations:

- A. No fully automatic firearms;
- B. No shotguns larger than ten (10) gauge;
- C. No shotguns capable of holding more than three shells for hunting waterfowl;
- D. No shotgun shells holding lead shot for hunting waterfowl.

(Res. 99-03 (part))

**7.24.130 Commercial hunting.**

Nonedible portions of game animals may be sold or traded (antlers, hides, teeth), except for cougar, bighorn sheep, mountain goat, velvet antlers of deer or elk, or the gall bladder, claws and teeth of bear.

(Res. 99-03 (part))

**7.24.140 Prohibitions and penalties.**

- A. Eggs and Nests. It is unlawful to take, destroy or possess any egg(s) or nest(s) of game birds. Violation of this provision is a Class D penalty.
- B. Artificial Illumination. It is unlawful to hunt big game with a spotlight or any other type of artificial illumination/light, unless specifically allowed as a ceremonial hunt. Violation of this provision is a Class C penalty.
- C. Vehicles and Boats. It is unlawful to use a vehicle or boat to concentrate or harass animals or birds. Violation of this provision is a Class C penalty.
- D. Aircraft. It is unlawful to use an aircraft to concentrate, harass, transport or hunt animals or birds. Violation of this provision is a Class C penalty.
- E. Dogs. It is unlawful to use a dog to harass or concentrate deer or elk. However, a dog may be used to track a deer or elk once the animal has been killed or wounded. Violation of this provision is a Class C penalty.
- F. Hunting Across Public Highways. Discharging a firearm from, across, or along the maintained portion of any public highway, regardless of surface, is prohibited. Violation of this provision is a Class C penalty.
- G. Possession of Wildlife Taken by Another. It is unlawful to possess wildlife taken/killed by another person except processed meat. Violation of this provision is a Class D penalty.
- H. Head Required in Possession and Transportation. It is unlawful to possess any wildlife in the field or during transportation unless the feathered heads accompany all game birds, and each head accompanies the carcass of any big game animal, even if the animal was boned in the field. Violation of this provision is a Class C penalty.
- I. Production of Permits, Identification and Wildlife to Enforcement. It is unlawful to fail to stop and produce wildlife in possession and appropriate stamps, licenses, permits, tags or punchcards to Tribal, federal or state law enforcement officials. Violation of this provision is a Class B penalty.
- J. Commercial Hunting. It is unlawful to exercise or assist in the exercise of Tribal hunting privileges for an unauthorized commercial purpose. Violation of this provision is a Class B penalty.
- K. Hunting With Fully Automatic Firearm. It is unlawful to hunt with a fully automatic firearm. Violation of this provision is a Class B penalty.

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- L. Hunting Without License and/or Permits. It is unlawful to hunt without a validly issued permit or punchcard in an area opened for hunting. This provision does not apply to hunters simply failing to possess on their person their Tribal identification. Violation of this provision is a Class C penalty.
- M. Hunting in Closed Area. It is unlawful to hunt in an area not opened by Tribal regulation. Violation of this provision is a Class C penalty.
- N. Refusal to Produce Information. It is unlawful to refuse to produce Tribal identification, hunting permits and tags to an authorized Tribal, state or federal enforcement official. Violation of this provision is a Class C penalty.
- O. Use of Another's Permit, Identification or Tag. It is unlawful to use or attempt to use a Tribal hunting permit, identification or tag which was not issued to that individual. Violation of this provision is a Class C penalty.
- P. Improper Filling Out of Tags. It is unlawful for hunters to improperly fill out hunting tags. Violation of this provision is a Class D penalty.
- Q. Ceremonial Hunting Without Permit. It is unlawful for Tribal members to engage in a ceremonial hunt without a ceremonial permit. Violation of this provision is a Class C penalty.
- R. Exceeding Bag Limits. It is unlawful for a hunter to exceed bag limits if such limits are required under annual or emergency regulations. Violation of this provision is a Class C penalty.
- S. Failure to Report Harvest. It is unlawful for Tribal members to fail to report ceremonial or subsistence harvest within the time period required by annual or emergency regulation. Violation of this provision is a Class C penalty.
- T. Use for Nonceremonial or Subsistence Purposes. It is unlawful for a hunter to use game resources harvested for ceremonial or subsistence purposes for nonceremonial or subsistence purposes. Violation of this provision is a Class C penalty.
- U. Failure to Properly Tag or Punch. It is unlawful for a hunter to fail to tag game or punch punchcards in accordance with the requirements of annual or emergency regulations. Violation of this provision is a Class D penalty.
- V. Procurement of License, Tag or Permit Under False Pretenses. It is unlawful to buy, possess, or attempt to obtain any license, permit, or tag by using information which is known, or should have been known, to be false, or when one's hunting privileges have been revoked or suspended. Violation of this provision is a Class C penalty.
- W. Hunting Endangered Species. It is unlawful to kill or attempt to kill any Tribally or federally protected wildlife or endangered species, unless under permit to do so. Violation of this provision is a Class A penalty.
- X. Harass or Control Endangered Species. It is unlawful to harass or control any Tribally or federally protected wildlife or endangered species, unless under permit to do so. Violation of this provision is a Class B penalty.
- Y. Utility Lines and Poles. It is unlawful to shoot at anything on a utility line or pole, its cross-arm or insulator. Violation of this provision is a Class C penalty.
- Z. Discharge Within One Thousand Feet of Populated Areas. It is unlawful to shoot a firearm within one thousand (1,000) feet of a dwelling or other populated area without express permission of the landowner(s). Violation of this provision is a Class C penalty.
- AA. Shotgun Larger Than Ten Gauge. It is unlawful to hunt with a shotgun larger than a ten (10) gauge. Violation of this provision is a Class C penalty.
- BB. Waterfowl Shell Number. It is unlawful to hunt waterfowl with a shotgun capable of holding more than three shells. Violation of this provision is a Class D penalty.
- CC. Lead Shot Prohibition. It is unlawful to hunt waterfowl with shotgun shells holding lead shot. Violation of this provision is a Class C penalty.

(Res. 99-03 (part))

## **Chapter 7.28 SHELLFISH SANITATION**

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### **7.28.010 Chapter definitions.**

As used in this chapter, the following terms are defined in this section:

"Approved area" means the classification of a shellfish growing area which has been approved by the applicable shellfish control authority for growing or harvesting shellfish for direct marketing. The classification of an approved area is determined through a sanitary survey conducted according to National Shellfish Sanitation Program (NSSP) standards.

"Aquaculture" means the controlled production of mulluscan shellfish in natural and artificial systems. Components of aquaculture may overlap with other activities covered by this chapter such as relaying, transplanting, wet storage, depuration, growing water classification and labeling.

"Certification" means the issuing by the Shellfish Sanitation Control Agency (SSCA) of a numbered license or permit to operate that inductees compliance with the sanitation and program requirements of the NSSP standards. Certification of a shipper assures receiving jurisdictions that a firm meets NSSP criteria and is therefor eligible for interstate shipment and listing in the Interstate Certified Shellfish Shipper's List (ICSSL).

"Certification number" means the number assigned by the SSCA to each certified shellfish dealer. It consists of a one to five digit number preceded by the two letter state abbreviation and followed by the

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two letter symbol designating the type of operation certified. The SSCA may issue a certification number to all persons with separate facilities based on meeting NSSP standards.

"Co-mingling" means the act of combining different lots of shellfish or shucked shellfish.

"Conditionally approved area" means the classification of a shellfish growing area determined by the SSCA to meet approved area criteria for a predictable period. The period is conditional upon established performance standards specified in a management plan. A conditionally approved shellfish growing area is a closed area when the area does not meet the approved growing area criteria and is temporarily closed by the SSCA.

"Conditionally restricted area" means the classification of a shellfish growing area determined by the SSCA to meet restricted area criteria for a predictable period. The period is conditional upon established performance standards specified in a management plan. A conditionally restricted shellfish growing area is a closed area when the area does not meet the restricted growing area criteria and is temporarily closed by the SSCA.

"Depuration" means the process of using a controlled aquatic environment to reduce the level of bacteria and viruses in live shellfish.

"Dry storage" means the storage of shellstock out of water.

"Easily cleanable" means a surface that is readily accessible, and is made of such materials, has a finish and is so fabricated that residues may be effectively removed by normal cleaning methods.

"Food-contact surfaces" means an equipment surface or utensil with which shucked shellfish normally come into contact, directly or indirectly.

"Harvest" means the act of removing shellstock from growing waters and placing the shellstock on or in a manmade conveyance or other means of transport.

"Harvester" means a person who takes shellfish by any means from a growing area.

"Interstate Certified Shellfish Shipper's List (ICSSL)" means a Food and Drug Administration publication of shellfish shippers, domestic and foreign, who have been certified by a state or foreign SSCA as meeting the public health control measures of the NSSP.

"Label" means any written, printed, or graphic matter affixed to or appearing upon any package containing shellfish.

"License" means the document issued by the appropriate SSCA which authorizes a person to harvest and transport shellfish for commercial sale.

"National Shellfish Sanitation Program (NSSP)" means the cooperative FDA/State/Tribal/Industry program for certification of interstate shellfish shippers as described in the NSSP Manual of Operations Part I and II.

"Person" means an individual, partnership, corporation, association or other legal entity.

"Prohibited area" means waters that have been classified by the SSCA as prohibited for the harvesting of shellfish for any purpose except depletion. A prohibited shellfish growing area is a closed area for harvesting shellfish at all times.

"Repacker" means a person other than the original certified shucker-packer who repack shucked shellfish into other containers. A repacker may also repack and ship shellstock. A repacker shall not shuck shellfish.

"Reshipper" means a person who purchases shucked shellfish or shellstock from other certified dealers and sells the product without repacking or relabeling to other certified dealers, wholesalers or retailers.

"Restricted area" means waters that have been classified through a sanitary survey by the SSCA as an area from which shellfish may be harvested only if permitted and subjected to a suitable and effective relay or depuration process.

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"Safe materials" means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food.

"Sanitation closure area" means a growing area where the harvesting of shellfish is temporarily or permanently not permitted. A closed area status is or may be placed on any of the five classified areas designations approved, conditionally approved, restricted, conditionally restricted or prohibited.

"Sanitize" means the treatment to adequately treat food-contact surfaces by a process that is effective in destroying vegetative cells of microorganisms of public health significance, and in substantially reducing the numbers of other undesirable microorganisms, but without adversely affecting the product or its safety for the consumer.

"Scheduled depuration process" means a process which places shellfish harvested from restricted or approved waters into a controlled aquatic environment selected by the processor and approved by the SSCA as adequate to effectively reduce the level of bacteria and viruses in live shellfish.

"Shellfish" means all edible species of oysters, clams, mussels and scallop, either shucked or in the shell, fresh or frozen, in whole or in part.

"Shellfish Sanitation Control Agency (SSCA)" means an agency or agencies having the legal authority to classify shellfish growing areas, to issue certificates for the interstate shipment of shellfish and regulate harvesting, processing and shipping in accordance with the Nssp Manual of Operations, Parts I and II.

"Shellstock" means shellfish in the shell.

"Shellstock shipper" means a person, who grows, harvests, buys or repacks and sells shellstock. They are not authorized to shuck shellfish or to repack shucked shellfish. A shellstock shipper may also ship shucked shellfish.

"Shucked shellfish" means shellfish, whole or in part, from which one or both shells have been removed.

"Shucker-packer" means a person who shucks and packs shellfish. A shucker-packer may act as a shellstock shipper or reshipper or may repack shellfish originating from other certified dealers.

"Temperature control" means management of environmental temperature of molluscan shellfish by means of ice, mechanical refrigeration or other approved means which will lower internal body temperature of the animal or will maintain it at approved temperatures.

"Tribal dealer" is a Tribal member who is engaged as a commercial shellfish shipper, reshipper, shucker-packer, repacker, or depuration processor or operator.

"Wet storage" means the temporary storage of shellfish from approved sources, by a certified dealer, intended for marketing, in containers or floats in natural bodies of water or in tanks containing natural or synthetic seawater.

(Res. 99-03 (part))

### **7.28.020 Generally.**

Pursuant to the consent decree on shellfish sanitation issued in *United States v. Washington*, subproceeding 89-3, the Natural Resources Director is directed to promulgate regulations for sanitary control of all phases of the harvesting, processing, distribution and shipping of shellfish to domestic and international markets.

(Res. 99-03 (part))

**7.28.030 Person applied.**

This chapter applies to all authorized harvesters (including aquaculturists); all Tribal members handling the shellfish prior to its delivery to a non-Tribal buyer; all Tribal members engaged in depuration, wet storage, shucking, packing and repacking; and all Tribal members shipping shellfish in domestic or international commerce.

(Res. 99-03 (part))

**7.28.040 Source management.**

The Natural Resources Director (Director) shall promulgate regulations which shall regulate the harvest operations of the Squaxin Island Tribe in order to minimize the sanitation impacts to the inter-tidal beaches harvested pursuant to this chapter. These regulations include the authority to review and copy necessary records to determine whether compliance with the applicable requirements is being maintained.

(Res. 99-03 (part))

**7.28.050 Boats and trucks.**

All boats used for harvesting or transporting shellfish, including "buy boats," and all trucks used for hauling bulk, bagged, containerized, or otherwise packaged shellfish shall be constructed, operated, and maintained so as to prevent contamination, deterioration, or decomposition of the shellfish, and shall be kept clean. The Director shall promulgate regulations in conformance with NSSP standards.

(Res. 99-03 (part))

**7.28.060 Shipping and labeling.**

Director shall promulgate regulations in conformance with NSSP standards which shall regulate the shipping conditions and labeling for shellfish to protect against contamination and to provide for accurate source identity. These controls shall apply to every person who handles shellfish from the point of harvest through shipping or sale to a non-Tribal buyer.

(Res. 99-03 (part))

**7.28.070 Washing of shellfish.**

Shellfish shall be washed with water obtained from an approved growing area, or from other safe sources in conformance with NSSP standards.

(Res. 99-03 (part))

**7.28.080 Disposal of body waste.**

- A. Boat Discharges. Body wastes shall not be discharged from harvest or buy boats while in an area approved for shellfish harvesting.
- B. Portable Toilets. If provided, portable toilets are to be used only for the purpose intended, and shall be so secured and located as to prevent contamination of the shellfish by spillage or leakage. The contents of portable toilets shall be emptied only into an approved sewage disposal system, and shall be cleaned before being returned to the boat.

(Res. 99-03 (part))

**7.28.090 Sale, purchase, processing, storage, packaging and repacking.**

Director shall promulgate regulations for the sale, purchase, processing storage, packaging and repacking of shellfish harvested pursuant to this chapter to protect against contamination and product quality degradation, to maintain source and lot identity and integrity, and to provide for proper labeling and packaging.

- A. Safe Materials. All sacks, boxes, and other shellfish packing containers shall be clean and fabricated from safe materials.
- B. Harvest Tags. Each harvester must affix a Natural Resource Department approved, durable waterproof tag to each container of shellfish in conformance with NSSP standards.

(Res. 99-03 (part))

**7.28.100 Depuration.**

Prior to any depuration occurring, Director shall promulgate a scheduled depuration process (SDP) for the depuration of shellfish to prevent illegal diversions, ensure cleansing, protect against recontamination, verify product quality and effectiveness of the SDP, maintain production and product quality records, and provide for proper labeling and packaging.

(Res. 99-03 (part))

**7.28.110 Wet storage.**

Shellfish for wet storage shall be harvested only from approved, conditionally approved areas, or are taken from a certified depuration facility, and shall be identified and shipped in accordance with this chapter and NSSP standards.

(Res. 99-03 (part))

**7.28.120 Shucking and packing.**

- A. Plant Location, Grounds and Arrangements. Plants in which shellfish are shucked and packed or repacked shall be located so that they will not be subject to flooding at high tides. The grounds about a plant shall be free from conditions which may result in contamination of the shellfish at any time during processing and storage. Buildings and structures shall be suitable in size, construction, and design to facilitate proper maintenance and operation. Shucking and packing operations shall be conducted according to NSSP standards.
- B. Dry Storage and Protection of Shellfish. Shellfish in dry storage shall be protected from contamination and maintained under NSSP temperature standards. Shellfish from different sources shall be separated as necessary to avoid co-mingling and aid in maintaining source identity during shucking and repacking operations.
- C. Floors. Floors shall be constructed of materials impervious to water, be graded to drain quickly, be easily cleanable and be maintained in good condition.
- D. Walls and Ceilings. The interior walls of rooms in which shellfish are shucked or packed, or in which utensils are washed, shall be smooth, washable, light-colored, and kept in good repair.
- E. Insect and Vermin Control Measures. Safe and effective measures, in compliance with NSSP standards, shall be used to prevent the entry of insects, rodents and other vermin and to kill and capture insects and vermin that enter the plant despite other control measures.

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- F. Lighting. Safe and adequate lighting shall be provided in all handwashing areas, all dressing, locker and toilet rooms, all areas where shellfish are processed and stored, all areas where equipment and utensils are cleaned, and all areas where containers and other packaging materials are stored.
- G. Heating and Ventilation. Working rooms shall be adequately ventilated and heated or cooled when necessary. Operation of cooling, heating or ventilating equipment shall not create conditions that may cause shellfish to become contaminated.
- H. Water Supply. The water supply shall be properly constructed and protected, be easily accessible, adequate and of a sanitary quality. The water supply shall conform to NSSP standards.
- I. Plumbing and Related Facilities. Plumbing shall be adequately designed installed and maintained according to NSSP standards to supply potable water to the plant and to remove sewage and floor drainage from the plant. There shall be sufficient handwashing and toilet facilities conveniently located to promote sanitary employee practices.
- J. Sewage Disposal. Sewage shall be discharged into an adequate sewerage system or disposed of through other effective means. Where private sewage disposal systems are utilized, they shall be constructed and maintained according to state and local laws. Privies are acceptable only where water carriage systems are not feasible. The sewerage system shall be constructed and maintained in order that waste will be inaccessible to flies and rodents and shall not provide a source of contamination.
- K. Poisonous or Toxic Materials. Only those poisonous or toxic materials necessary for plant operation shall be present in the plant. Containers of poisonous or toxic materials shall be prominently labeled for easy identification of contents and safely stored. Such materials shall be used only in accordance with label directions.
- L. Construction of Shucking Benches and Tables. Shucking benches and tables shall be designed and constructed so as to be easily cleaned. Contiguous walls, stalls, stands, and shucking blocks, if used, shall be similarly constructed.
- M. Construction of Utensils and Equipment. Food-contact surfaces of utensils and equipment, including those used for handling ice shall be made of easily cleanable safe materials which will not easily disintegrate or crack. Utensils and equipment shall be so constructed as to be easily cleanable and shall be kept in good repair and conform to NSSP standards.
- N. Cleaning and Sanitizing Equipment and Utensils. All shucking benches and stools, shucking blocks, tables, skimmers, blowers, colanders, buckets, or any other equipment used in the processing operation shall be cleaned and sanitized according to NSSP standards as frequently as necessary during the day's operation to prevent the introduction of undesirable microbiological organisms and filth into the shellfish product. All food-contact surfaces of utensils and equipment shall be adequately cleaned and sanitized at the end of the day's operation and stored so as to protect against contamination. Cleaning and sanitizing may be required prior to commencing a day's operation. Refrigerators shall be kept clean.
- O. Sources of Shellfish. Appropriate procedures according to NSSP standards shall be employed by the certified dealer receiving shellfish to assure that incoming shellfish are obtained either from a licensed harvester or a Tribal buyer, are properly tagged or otherwise identified to show their source, are accompanied by all required transaction records, and are clean and wholesome.
- P. Shucking. Shellfish shall be shucked in a manner according to NSSP standards in a manner such that they will not be subjected to contamination. Shellfish shall be reasonably free of mud when shucked. Only wholesome and safe shellfish shall be shucked, and shellfish with badly broken shells shall be discarded. Shucking operations should be scheduled to ensure that shucked product does not remain at the shucking station for prolonged periods, and to minimize co-mingling of shellfish from different sources. Water used in fluming or washing shellfish shall be from an approved source.
- Q. Shell and Waste Disposal. Shells from which meats have been removed, and other nonedible materials shall be removed promptly from the shucking room and disposed of so as not to create a nuisance condition.

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- R. Construction and Handling of Single-Service Containers. All single-service and single-use containers shall be fabricated from safe materials and so designed to be easily cleaned and sanitized. Containers shall be stored and handled in a sanitary manner and, where necessary, shall be cleaned and sanitized immediately prior to filling.
- S. Packing of Shucked Shellfish. Shucked shellfish shall be promptly packed according to NSSP standards without being exposed to contamination. Shucked shellfish shall be packed and shipped in clean containers fabricated from safe materials. Returnable containers shall be accepted only for interplant shipment of shucked shellfish and shall be sealed during transport.
- T. Labeling Shucked Shellfish. Each individual package of fresh or fresh frozen shucked shellfish shall have permanently record certification number of the dealer and information required by 21 CFR 101, 21 CFR 161.130-161.140(36), and other applicable NSSP standards.
- U. Refrigeration and Shipping of Shucked Shellfish. After shucking and packing in accordance with this chapter, shucked shellfish shall be adequately refrigerated and protected according to NSSP standards to prevent contamination and minimize product deterioration.
- V. Ice. Ice shall be made in a sanitary manner or obtained from a safe source specifically approved by the appropriate regulatory agency. Ice shall be stored and handled in a sanitary manner.
- W. Records. Complete and accurate, legible transaction records required by NSSP standards shall be maintained by each certified dealer which provides all information necessary to trace all purchases and sales of shellfish back to their source.
- X. Employee Health. Any person infected with a disease in a communicable stage or while a carrier of such disease or who has an infected wound or open lesion on their body, or other abnormal sources of microbiological contamination, shall be excluded from the shucking or packing plant. A person-in-charge who has reason to suspect that any employee has contracted a communicable disease shall immediately notify the proper health officials. Pending appropriate action by health officials, the suspect employee shall be excluded from the plant.
- Y. Supervision. The management shall clearly designate a competent individual to be accountable for compliance with NSSP standards relating to personal hygiene and plant sanitation.
- Z. Personal Cleanliness. All persons working in direct contact with shellfish processing operations or food-contact surfaces shall maintain a high level of cleanliness and personal hygiene according to NSSP standards.
- AA. Education and Training. Employees handling shucked shellfish should receive appropriate training in proper food-handling techniques and should understand the danger from poor personal hygiene and unsanitary practices.
- BB. Recalls. Tribal buyers and dealers shall adopt written procedures for conducting recalls of adulterated or misbranded shellfish products. Tribal buyers and dealers shall follow their recall procedures when necessary.

(Res. 99-03 (part))

### **7.28.130 Shellfish shipping.**

A Tribal buyer may buy and sell shellfish from a harvester or other certified dealer, may reship whole or shucked shellfish, and may relabel shellfish. Repackaging may only be done by shellstock shippers with permanent physical facilities. A shellstock shipper may not shuck, relabel, or repack shellfish.

- A. Source, Identification and Records. All shellstock shall originate from an approved source and be packaged, protected and identified according to the requirements of this chapter and NSSP standards.

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- B. Shellstock Storage and Shipping. Shellstock shall be shipped and stored at such temperatures and under such conditions as comply with NSSP standards. Shellstock shall be identified and records maintained in such a manner that containers can be traced back to their source.
- C. Repacking and Relabeling Shellstock.
  - 1. Only clean and wholesome shellfish may be repacked. Repacking facilities and equipment shall meet applicable NSSP sanitation requirements to assure that the shellfish are not contaminated during repacking and microbiological deterioration does not occur.
  - 2. Shellstock from different lots shall not be co-mingled. Each container of repacked or relabeled shellstock shall be identified as to harvest area, date of harvest, type and quantity of shellfish, and the certification number of the shellstock shipper.
  - 3. Records shall be maintained which will permit a package of shellstock to be traced back to the harvest area. Records shall also include the date of harvest and the harvester or group of harvesters.

(Res. 99-03 (part))

### **7.28.140 Repacking.**

- A. Origination, Refrigeration and Labeling. Shucked shellfish to be repacked may only originate from a certified shucker-packer and, upon receipt, shall be refrigerated, protected and labeled in compliance with NSSP standards.
- B. Records of Purchase. Records of each purchase shall be maintained which will permit all shucked shellfish to be traced back to the source.
- C. Co-mingling and Temperature Controls. Shellfish from different lots may not be co-mingled and temperatures shall comply with NSSP standards.

(Res. 99-03 (part))

### **7.28.150 Reshipping.**

Reshippers shall comply with all applicable requirements of Sections 7.28.050 through 7.28.090.

(Res. 99-03 (part))

### **7.28.160 Closures and suspensions of operations.**

In addition to the penalties noted in this chapter, the Director may apply the following suspensions for any situation which is not in compliance with the NSSP.

- A. Suspension of operations or decertification of harvesters or Tribal buyers on the basis of unacceptable operating and sanitation conditions.
- B. Suspension of harvest and Tribal buying shall be immediately lifted upon abeyance of the noncompliance.

(Res. 99-03 (part))

### **7.28.170 Violations and penalties.**

- A. Harvesting in a Sanitation Closure Area. It is unlawful to harvest shellfish from an area which has been closed by the SSCA for shellfish sanitation concerns. Violation of this provision is a Class B penalty.

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- B. Sale of Shellfish from a Sanitation Closure Area. It is unlawful to sell shellfish harvested from an area that has been closed by the SSCA for shellfish sanitation concerns. Violation of this provision is a Class A penalty.
- C. Co-mingling. It is unlawful to co-mingle different lots of shellstock or shucked shellfish. Violation of this provision is a Class C penalty.
- D. Unclean Transport. It is unlawful to transport shellfish in a boat or truck which does not conform to regulations protecting against contamination, deterioration, or decomposition of shellfish. Violation of this provision is a Class C penalty.
- E. Improper Washing. It is unlawful to wash shellfish with water which was not obtained from an approved growing area or other safe source in conformance with NSSP standards. Violation of this provision is a Class C penalty.
- F. Discharge of Body Waste. It is unlawful to discharge or fail to properly contain body waste from harvest or buy boats while in an area approved for shellfish harvest, and/or while shellfish is on the boat. Violation of this provision is a Class D penalty.
- G. Use of Improper Containers. It is unlawful to store, package or repack shellfish in materials which are not clean and/or fabricated from safe materials. Violation of this provision is a Class D penalty.
- H. Improper Labeling, Packing and/or Shipping. It is unlawful to label, pack, or ship shellfish in a manner that is not in compliance with the NSSP. Violation of this provision is a Class D penalty.
- I. Improper Wet Storage. It is unlawful to wet store shellfish taken from areas other than approved, conditionally approved, or certified depuration facilities. Violation of this provision is a Class D penalty.
- J. Improper Dry Storage. It is unlawful to dry store shellfish in conditions not in compliance with the NSSP and that do not protect from contamination and/or are under proper temperature controls. Violation of this provision is a Class D penalty.
- K. Improper Record Keeping. It is unlawful to fail to keep records in compliance with the NSSP standards, or in a manner that does not allow the ability to trace all purchases and sales of shellfish back to their source. Violation of this provision is a Class D penalty.
- L. Nonlicensed activity. It is unlawful for a person to conduct an activity without a license or certification required by the NSSP. Violation of this provision is a Class B penalty.
- M. Improper Relabeling, Repacking, and/or Reshipping. It is unlawful to repack, relabel, or reship shellfish in a manner that is not in compliance with the NSSP. Violation of this provision is a Class D penalty.

(Res. 99-03 (part))

### **Chapter 7.32 TIDELANDS ACCESS CODE—PERMIT ONLY**

#### **Sections:**

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[7.32.020 Purpose.](#)

[7.32.030 Scope.](#)

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[7.32.050 Squaxin Island tidelands access—Authorized.](#)

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[7.32.100 Unauthorized uses.](#)

[7.32.110 Unauthorized uses—Misdemeanor.](#)

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[7.32.130 Island access—Prior resolutions.](#)

[7.32.140 Short title.](#)

[7.32.150 Severability.](#)

### **7.32.010 Authority.**

The Squaxin Island Tribal Council's authority to adopt the resolution codified in this title is found in the Squaxin Island Tribal Constitution and in the inherent sovereignty of the Squaxin Island Tribe to regulate its own territory and activities therein.

(Res. 04-57 (part))

### **7.32.020 Purpose.**

The purpose of this chapter is to allow access, over, on and across aquatic and land areas in a manner that preserves the tidelands and bed lands of Squaxin Island.

All areas on the Squaxin Island Indian Reservation, including particularly Squaxin Island are subject to or at the risk of alteration by human activity. Natural lands, together with the plants and animals living thereon in natural ecological systems, are valuable for numerous purposes, including scientific research, teaching, as habitats of rare and vanishing species, as places of natural historic and natural interest and scenic beauty, cultural continuity and as living museums of the original heritage of the Squaxin Island Tribe and its predecessors.

The original reserve of the Squaxin Island Tribe, Squaxin Island is a unique aquatic and land area, initially reserved to the Tribe by the Treaty of Medicine Creek, the site of the interplay of conflicting federal land use and ownership policies, and the ancestral land, and subsequent forced locale of the peoples presently known as the Squaxin Island Tribe. The Island remains a natural area preserve and has not suffered any significant alteration by human activity. The Island continues to be held by the Tribe as place of important and enduring historical, cultural, environmental and biological value.

It is, therefore, the policy of the Squaxin Island Tribe to secure for the people of present and future generations the benefit of an enduring resource of the Island by providing for the protection of its tidelands.

(Res. 04-57 (part))

### **7.32.030 Scope.**

- A. Application. This chapter shall apply to the full extent of the sovereign jurisdiction of the Squaxin Island Tribe in Indian country.
- B. Compliance with this chapter is hereby made a condition of the use of any tidelands or bed lands of Squaxin Island.
- C. Deemed to Consent. Any person who resides, conducts business, engages in a business transaction, receives benefits from the tribal government, including police, fire or emergency

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services, acts under tribal authority, or enters the Indian country under the jurisdiction of the Squaxin Island Tribe, including Squaxin Island, shall be deemed thereby to have consented to the following:

1. To be bound by the terms of this chapter;
2. To the exercise of civil jurisdiction by the Squaxin Island Tribal Court over said person in legal actions arising pursuant to this chapter; and
3. To detainment, service of summons and process, and search and seizure, in conjunction with legal actions arising pursuant to this chapter.

(Res. 04-57 (part))

### **7.32.040 Definitions.**

The following definitions apply throughout this chapter unless otherwise specified or the context clearly indicates otherwise:

"Department" means the Squaxin Island Department of Natural Resources.

"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.

"Line of navigability" means a measured line at that depth sufficient for ordinary navigation as determined by the department.

"Ordinary high water" means, for the purpose of asserting tribal ownership, the line of permanent upland vegetation along the shores of navigable waters. In the absence of vegetation, it is the line of mean high water.

"Person" means and includes any natural individual, company, partnership, firm, joint venture, association, corporation, estate, trust, political entity, or other identifiable entity.

"Squaxin Island Indian Reservation" or "reservation" means the area recognized as the Squaxin Island Indian Reservation by the United States Department of the Interior.

"State" means the state of Washington.

"Tidelands" means tidelands and shore lands of Squaxin Island and includes bed lands of navigable waters. The term "beds of navigable waters" means those lands lying water ward of and below the extreme low tide mark in navigable tidal waters; the term shore lands means the shores of a navigable lake or river belonging to the state, not subject to tidal flow, lying between the line of ordinary high water and the line of navigability; the term tidelands means lands lying between the line of ordinary high water and the line of navigability.

"Tribal Council" means the Squaxin Island Tribal Council.

"Tribe" or "tribal" means or refers to the Squaxin Island Tribe.

(Res. 04-57 (part))

### **7.32.050 Squaxin Island tidelands access—Authorized.**

Access over, on and across the tidelands of the Squaxin Island Indian Reservation is authorized by this chapter consistent with the requirements hereunder.

(Res. 04-57 (part))

**7.32.060 Squaxin Island tidelands access—Permits for access.**

Whenever the department finds that it is for the best interest of the Tribe, the department may grant permits for the use of tidelands for access to any person. Any permit issued under the authority of this section shall be subject to reasonable regulation by the department. Such regulation may include, but is not limited to, the following matters:

- A. Requirements for construction, reconstruction, maintenance and repair;
- B. Limitations as to extent and time of use;
- C. Provision for revocation at the discretion of the department; and
- D. Charges for use, including but not limited to rent.

(Res. 04-57 (part))

**7.32.070 General requirements.**

All requirements in this section shall apply to the department.

All necessary tribal, federal, state and local permits for upland and or tideland use (including, for example, but not limited to, cultural, forest resources, and environmental) shall be acquired by those proposing to access Squaxin Island tidelands. Copies of permits must be furnished to the department prior to authorizing the access of Squaxin Island tidelands.

Aquatic land use, other than access as authorized hereunder, shall not be authorized.

Uses which cause adverse environmental impacts may be authorized on Squaxin Island tidelands only upon compliance with applicable environmental laws and regulations and appropriate steps taken as may be directed are taken to mitigate damage to the environment.

(Res. 04-57 (part))

**7.32.080 Powers of department.**

In order to set aside, preserve, and protect the tidelands, the department is authorized, in addition to any other powers, to:

- A. Establish the regulations, procedures, and fees necessary to implement this chapter, subject to approval by the Tribal Council;
- B. Cooperate or contract with any federal, state, or local governmental agency, private organizations, or individuals in carrying out the purpose of this chapter;
- C. Establish exemptions for members of the Squaxin Island Tribe;
- D. Reserved.

(Res. 04-57 (part))

**7.32.090 Abutting property—No additional rights conferred or created.**

Nothing in this section shall confer upon, create, or recognize in any abutting owner any right or privilege in or to any tideland and or waterway, but the control of and the right to use such tideland and or waterway is hereby reserved.

(Res. 04-57 (part))

**7.32.100 Unauthorized uses.**

Unauthorized uses of tribally owned tidelands may result in financial losses to the Tribe, adverse impact to the lands, potential increases in liability, and or loss of significant cultural, environmental and or biologic values.

The following uses are not authorized:

- A. Any use or access without first obtaining the permit required by this chapter;
- B. Trespassing or stealing resources;
- C. Not complying with the terms of a permit;
- D. Failing to pay fees or rent;
- E. Exposing the Tribe to legal liability for violations of cultural or environmental or other laws; and/or
- F. Conducting activities which present a public safety hazard.

(Res. 04-57 (part))

**7.32.110 Unauthorized uses—Misdemeanor.**

Every person being in lawful possession of any Squaxin Island tidelands, under and by virtue of any permit, takes or removes, or causes to be taken or removed therefrom, or maliciously injures or severs anything attached thereto, or the produce thereof, or digs, quarries, mines, takes or removes therefrom, any shellfish (whether or not embedded), earth, soil, clay, sand, gravel, stone, mineral or other valuable material, or causes the same to be done, or otherwise injures, defaces or damages, or cause to be injured, defaced or damaged, any such lands unless expressly authorized to do so by the permit under which he holds possession of such lands shall be guilty of a misdemeanor.

(Res. 04-57 (part))

**7.32.120 Unauthorized uses—Trespass, waste, damages—Prosecution.**

Every person who, without authorization, uses or occupies Squaxin Island tidelands, removes any valuable material from Squaxin Island tidelands, or causes waste or damage to Squaxin Island tidelands, or injures tribally owned personal property or tribally owned improvements to real property on Squaxin Island tidelands, is liable to the Tribe for treble the amount of the damages. However, liability shall be for single damages if the department determines, or the person proves upon trial, that the person, at time of the unauthorized act or acts, did not know, or have reason to know, that he or she lacked authorization. Damages recoverable under this section include, but are not limited to, the market value of the use, occupancy, or things removed, had the use, occupancy, or removal been authorized; and any damages caused by injury to the land, tribally owned personal property or tribally owned improvement, including the costs of restoration. In addition, the person is liable for reimbursing the Tribe for its reasonable costs, including but not limited to, its administrative costs, survey costs to the extent they are not included in damages awarded for restoration costs, and its reasonable attorneys' fees and other legal costs.

The department is authorized and directed to investigate all trespasses and wastes upon, and damages to, Squaxin Island tidelands, and to cause prosecutions for, and/or actions for the recovery of the same to be commenced as is provided by law.

(Res. 04-57 (part))

**7.32.130 Island access—Prior resolutions.**

Prior Tribal Council resolutions dealing with the Squaxin Island tidelands access are superseded by this chapter.

(Res. 04-57 (part))

**7.32.140 Short title.**

This act shall be known and cited as the Squaxin Island Tidelands Access Code.

(Res. 04-57 (part))

**7.32.150 Severability.**

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

(Res. 04-57 (part))

**Chapter 7.36 FOREST PRACTICES ACT AND REGULATIONS\***

\* Editor's note: The Squaxin Island Tribe Forest Practice Act was adopted by Resolution 04-56 and amended by Resolution 05-74 and is on file for public inspection.