

TITLE 10  
CRIMES AND TRAFFIC  
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TITLE 10  
CRIMES AND TRAFFIC

CHAPTER I - EXTRADITION

10.1            EXTRADITION PROCEDURE

10.1.1        Tribal Police Chief to Investigate

When a felony arrest warrant has been issued by a competent jurisdiction, other than the Nisqually Tribe, for the arrest of any person known or suspected to be present on the Nisqually Reservation, the following procedure shall be followed:

- (a)        The law enforcement agency responsible for executing the warrant shall present the warrant to the Chief of the Nisqually Tribal Police;
- (b)        The Chief may investigate the warrant's validity to the extent that such investigation does not jeopardize outside enforcement efforts to effectuate the arrest; and
- (c)        Upon the Chief's satisfaction that the warrant is valid, the Chief or his/her designee may coordinate with the requesting agency to execute the warrant; provided that no arrest warrant shall be executed by an outside enforcement officer upon lands within the exclusive jurisdiction of the Nisqually Tribe without being accompanied by a Nisqually Police Officer.

HISTORICAL AND STATUTORY NOTES

The term "subchapter" changed to "chapter" throughout this Title as part of the 2009 reformatting. This Title enacted by Tribal Council Resolution 87-2006, dated September 11, 2006.

TITLE 10  
CRIMES AND TRAFFIC

CHAPTER II – CRIMINAL OFFENSES

10.2            GENERAL PROVISIONS

10.2.1        Application and Construction

- (a)        This Chapter shall be known and may be cited as the Nisqually Criminal Offenses Code.
- (b)        The provisions of this Title shall apply to any criminal offense committed on or after the date it is adopted by resolution of the Nisqually Tribal Council.





- (b) To safeguard conduct that is without culpability from conduct that is criminal.
- (c) To give fair warning of the nature of conduct declared to constitute an offense.
- (d) To prescribe penalties based upon the seriousness of the offense and the offender's criminal history.

#### 10.2.4            Classification of Crimes

- (a) The particular classification of each offense defined in the Nisqually Criminal Code is expressly designated in the subsection defining it.
- (b) For the purpose of penalty, offenses are designated as Class I, Class II or Class III. Penalties for each class are set forth in the penalty section of the Chapter.

#### 10.2.5            Proof

Every person charged with the commission of a criminal offense is presumed innocent until proven guilty. No person may be convicted of a criminal offense unless each element of such offense is proved beyond a reasonable doubt.

#### 10.2.6            Definitions

In this Title, unless a different meaning plainly is required, the following definitions apply:

- (a) Acted includes, where relevant, omitted to act.
- (b) Actor includes where relevant, a person failing to act.
- (c) Benefit is any gain or advantage to the beneficiary, including any gain or advantage to a third person pursuant to the act, desire or consent of the beneficiary.
- (d) Bodily harm means any physical pain, injury, or illness, or an impairment of physical condition.
- (e) Building in addition to its ordinary meaning, includes any dwelling, fenced area, vehicle, boat, cargo container or any other structure used for lodging of persons or storage of property, or for carrying on business therein, or for the sale, use or deposit of goods.
- (f) Controlled Substance means all substances identified as controlled substances or listed in schedules I, II, III, IV and V of the Uniform Substances Act as adopted by the State of Washington in RCW 69.50, and as herein after amended in those provisions, except as may be otherwise specifically addressed in this Title.

- (g) Confinement means total or partial confinement in detention. Total confinement means inside the physical boundaries of a jail facility for 24 hours a day. Partial confinement means confinement inside the physical boundaries of a jail facility for a substantial part of the day, it also includes work release.
- (h) Conviction means an adjudication of guilt and includes a verdict of guilty, a finding of guilty and acceptance of a plea of guilty.
- (i) Criminal History means the list of the defendant's prior conviction whether within the Tribal, state or federal court and shall include, where known:
- (i) whether the defendant has been placed on probation and the length and terms thereof; and
  - (ii) whether the defendant has been incarcerated and the length of incarceration.
- (j) Criminal street gang means any ongoing organization, association, or group of two or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.
- (k) Criminal street gang associate or member means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.
- (l) Criminal street gang-related offense means any offense, whether in this jurisdiction or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:
- (i) To gain admission, prestige, or promotion within the gang;
  - (ii) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;
  - (iii) To exact revenge or retribution for the gang or any member of the gang;
  - (iv) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;
  - (v) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or
  - (vi) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance; arson; trafficking in stolen property; or promoting prostitution.

- (m) Dangerous weapon Any firearm, sand club, metal knuckles, karate stars, spring blade knife, or any knife the blade of which is automatically released by a spring mechanism or other mechanical device, or any knife having a blade which opens, or falls, or is ejected into position by the force of gravity or by an outward, downward or centrifugal movement.
- (n) Dating Relationship means a social relationship of a romantic nature. Factors that the court may consider in making this determination include: (a) The length of time the relationship has existed; (b) the nature of the relationship; and (c) the frequency of interaction between the parties.
- (o) Deadly weapon means any explosive or loaded or unloaded firearm, and shall include any other weapon, device, instrument, article or substance, including a “vehicle” as defined in this subsection, which, under the circumstances in which it is used, or threatened to be used, is readily capable of causing serious bodily harm.
- (p) Domestic Violence means: (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; (b) sexual assault of one family or household member by another; or (c) stalking of one family or household member by another family or household member.
- (q) Drug paraphernalia means all paraphernalia identified in RCW 69.50.102.
- (r) Dwelling means any building or structure, though moveable or temporary, or a portion thereof, which is used or ordinarily used by a person for lodging regardless of whether the dwelling is being used for lodging.
- (s) Enter shall include the entrance of the person, or the insertion of any body part, or any instrument or weapon held, used or intended to be used to threaten or intimidate a person or to detach or remove property.
- (t) Enters or remains unlawfully A person enters or remains unlawfully in or upon premises when he is not then licensed, invited or otherwise privileged to so enter or remain. A license or privilege to enter or remain in a building which is only partially open to the public is not a license to enter or remain in that part of the building which is not open to the public.
- (u) Family or household members means spouses, domestic partners, former spouses, former domestic partners, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and

grandchildren.

- (v) Firearm A weapon or device from which a projectile may be fired by an explosive such as gunpowder. Air guns and other guns fired by the release of compressed gas are firearms. Firearm shall also include any explosive, incendiary, or poison gas (i) bomb, (ii) grenade, (iii) rocket having a propellant charge of more than four ounces, (iv) missile having an explosive or incendiary charge of more than one-quarter ounce, (v) mine, or (vi) similar device.
- (w) Government means any branch of the federal government, the state of Washington, or the Nisqually Indian Tribe.
- (x) Government function means any activity which a public servant is legally authorized or permitted to undertake on behalf of a government.
- (y) Indian means an enrolled member of a federally recognized tribe, band or community.
- (z) Malice and Maliciously shall import an evil intent, wish or design to vex, annoy or injure another person.
- (aa) Cannabis means all parts of the plant of the genus Cannabis and the resin extracted from any part of the plant. It does not include the fiber produced from the stalks of the plant or sterilized seeds from the plant.
- (bb) Machine gun Any firearm or weapon known as a machine gun, mechanical rifle, submachine gun, and/or any other weapon, mechanism, or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into such weapon, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.
- (cc) Offender means a person who has been convicted of a criminal offense under this Title.
  - (i) A First Offender means a person who has not been convicted of an offense under this Title within five (5) years preceding conviction of the current offense.
  - (ii) A Second Offender means a person who has been convicted of an offense under this Title within five (5) years preceding conviction of the current offense
  - (iii) A Habitual Offender means a person who has been convicted of three or more offenses within any five (5) year period.
- (dd) Officer and Public Officer means a person holding office under a local, state, federal or tribal government who performs a public function and in so doing is vested with the exercise of some power of government. The definition includes peace officers.

- (ee) Omission means a failure to act.
- (ff) Peace Officer means a duly appointed local, state, federal or tribal law enforcement or probation officer.
- (gg) Person and/or actor includes any natural person and, where relevant, any corporation, partnership or unincorporated association.
- (hh) Prisoner includes any person held in custody under process of law or lawful arrest.
- (ii) Property means anything of value, whether tangible or intangible, real or personal.
- (jj) Restitution means the requirement that the offender pay a specific sum of money over a specific period of time to the court for the sole benefit of the victim or victims as payment for damages. The imposition of a restitution order does not preclude civil redress.
- (kk) Serious Bodily Harm means bodily injury which creates a probability of death, or which causes a significant permanent disfigurement, or which causes a significant permanent loss or impairment of the function of any bodily part or organ.
- (ll) Sexual Intercourse means:
  - (i) any penetration of the vagina or anus however slight, by an object or body part, when committed on one person by another, whether such persons are of the same
  - (ii) or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes; and
  - (iii) any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.
- (mm) Sexual Contact means any touching of the sexual or other intimate parts of a person whether clothed or unclothed for the purpose of gratifying sexual desire of either party.
- (nn) Sexually Explicit Conduct means actual or simulated intercourse, sexual contact or masturbation of the genitals or anus.
- (oo) Signature includes any memorandum, mark or sign made with intent to authenticate any instrument or writing or the subscription of any person thereto.
- (pp) Substantial Bodily Harm means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes fracture of any bodily part or organ.
- (qq) Threat means to communicate directly or indirectly the intent:
  - (i) To cause bodily injury to the person threatened or to any other person; or
  - (ii) To cause physical damage to the property of a person other than the actor; or

- (iii) To subject the person threatened or any other person to physical confinement or restraint; or
  - (iv) To do any other act which is intended to harm substantially the person threatened or another with respect to the person's health, safety, business, financial condition, reputation in the community or personal relationships.
- (tr) Vehicle means a "motor vehicle" as defined in the motor vehicle and traffic laws, any aircraft, or any vessel equipped for propulsion by mechanical means or by sail.

HISTORICAL AND STATUTORY NOTES

1. Subsection 10.02.06(j), (k) and (l) added and subsequent subsections renumbered by Resolution 45-2009, dated June 24, 2009.
2. Subsection (j) of this section amended by Tribal Council Resolution 54-2010 dated June 22, 2010.
3. Definitions for "dating relationship" "domestic violence", and "family or household member" added by Tribal Council Resolution 10-2014, dated February 11, 2014.

10.2.7 Domestic Violence

- (a) Because of the serious nature of domestic violence, the court in domestic violence actions:
  - (i) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;
  - (ii) Shall not require proof that either party is seeking dissolution of marriage prior to instigation of criminal proceedings;
  - (iii) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: PROVIDED, That the court may order a criminal defense attorney not to disclose to his or her client the victim's location; and
  - (iv) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.
- (b) At the time of arraignment the court shall determine whether a no-contact order shall be issued or extended. The no-contact order shall terminate if the defendant is acquitted or the charges are dismissed. A copy of the order shall be provided to the victim.
- (c) If a no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed.
- (d) Bail shall not be set for a person arrested for a new domestic violence offense unless set by a judge telephonically at the time of arrest, or at a preliminary appearance, arraignment or subsequent court appearance.

HISTORICAL AND STATUTORY NOTES

Subsection 10.02.07(e) added by Resolution 82-2008, dated September 3, 2008

### 10.3            SENTENCING

#### 10.3.1           Habitual Offenders

- (a) Every person who has received three convictions under this Title in any seven-year period shall thereafter be considered a habitual offender.
- (b) Habitual Offenders shall be sentenced to the maximum term of confinement for the class of offense and will be entitled only to suspension of any portion of the sentence that includes the imposition of a fine.

#### 10.3.2           Work Requirement for Prisoners

When a person has been sentenced to confinement such person may be compelled on each day of such term, except Sundays, to perform eight hours of labor on the streets, public buildings and grounds of the Tribe.

#### 10.3.3           Sentences

The following are presumptive sentencing ranges for terms of confinement for each class of offense. When sentencing an offender the court shall impose a term of confinement within the minimum and maximum term of confinement for each class of offense unless the court is authorized by this provision or another provision of this Title to waive a sentence within that range. The court may impose a term of confinement outside the sentence range for that offense only if it finds that there are substantial and compelling reasons justifying an exceptional sentence and the court enters written findings justifying the exceptional sentence.

- (a) A class I offense shall carry a minimum term of confinement of six months (180 days) and maximum term of one year (365 days). In addition to a term of confinement, a person convicted of a class I offense may also be required to pay a fine of not more than \$5,000.00.
- (b) A class II offense shall carry a minimum term of confinement of not less than two months (60 days) and a maximum term of confinement of seven months (210 days). In addition to a term of confinement, a person guilty of a class II offense may also be required to pay a fine of not more than \$2,500.00.
- (c) A class III offense shall carry a minimum term of confinement of one month (30 days) and a maximum period of confinement of three months (90 days); a person guilty of a class III offense may also be required to pay a fine of not more than \$1,000.00.
- (d) A sentence for a term of confinement within the minimum and maximum sentencing range cannot be appealed.
- (e) A sentence for a term of confinement outside the standard sentencing range can be appealed.



#### 10.3.4 Noncompliance With Sentences

If an offender violates any condition or requirements of a sentence the court may modify its sentence in accordance with this subsection.

- (a) The court, upon the motion of the Tribe, or upon its own motion, shall require the offender to show cause why the offender should not be punished for the noncompliance. The court may issue a summons or a warrant for arrest for the offender's appearance.
- (b) If the court finds the violation has occurred, it may order the offender to be confined for up to ninety (90) days in addition to imposing the remainder of a suspended sentence and it may modify the terms of its sentence and may convert a term of partial confinement to total confinement. Any time served in confinement awaiting a hearing on noncompliance shall be credited against any confinement ordered by the court.

#### 10.3.5 Sentencing Orders

The Clerk of the Court shall serve a copy of all sentencing orders on the parties, the Nisqually Police Department, the probation officer and where the offense was committed against a family member residing with the offender or against a minor, the Nisqually Department of Social Services.

#### 10.3.6 Addition to Sentence for Gang Activity

A person convicted of an offense that is committed for the benefit of, at the direction of, or in association with any criminal street gang, with the intent to promote, further, or assist in criminal conduct by gang members, shall, in addition and consecutive to the punishment prescribed for the offense of which he or she has been convicted, be punished by an additional term of six months incarceration.

#### HISTORICAL AND STATUTORY NOTES

Subsection 10.03.06 added by Resolution 47-2009, dated June 24, 2009

### 10.4 PRINCIPLES OF LIABILITY

#### 10.4.1 General Requirements of Culpability

- (a) Intent. A person acts with intent or intentionally when the person acts with the objective or purpose to accomplish a result which constitutes a crime.
- (b) Knowledge. A person acts or acts knowingly when:
  - (i) the person is aware of facts, circumstances or results described in a definition of offense or;
  - (ii) the person has information which would lead a reasonable person in the same situation to believe that facts exist which are described in a definition of an offense.

- (c) Recklessness. A person is reckless or acts recklessly when (s)he knows of and disregards a substantial risk that a wrongful act may occur and the disregard of such substantial risk is a gross deviation from conduct that a reasonable person would exercise in the same situation.
- (d) Criminal Negligence. A person is criminally negligent when the person fails to be aware of a substantial risk that a wrongful act may occur and his failure to be aware of such substantial risk is a gross deviation from conduct that a reasonable person would exercise in the same situation.

#### 10.4.2 Complicity – Liability for the Conduct of Another

A person is guilty of a crime if it is committed by the conduct of another person for which he or she is legally accountable.

- (a) A person is legally accountable for the conduct of another person when:
  - (i) Acting with the kind of culpability that is sufficient for the commission of the crime, he or she caused an innocent or irresponsible person to engage in such conduct; or
  - (ii) The person is made accountable for the conduct of such other person by the law defining the crime; or
  - (iii) The person is an accomplice of such other person in the commission of the crime.
- (b) A person who is legally incapable of committing a particular offense themselves may be guilty thereof if the crime is committed by the conduct of another person for which they are legally accountable, unless such liability is inconsistent with the purpose of the provision establishing his or her incapacity.
- (c) A person legally accountable for the conduct of another person may be convicted on proof of commission of the crime and of his or her complicity therein, though the person claimed to have committed the crime has not been prosecuted or convicted or has been convicted of a different crime or degree of crime or has an immunity to prosecution or conviction or has been acquitted.

#### 10.4.3 Accomplice

- (a) A person is an accomplice of another person in the commission of a crime if with knowledge that it will promote or facilitate the commission of the crime, the person;
  - (i) aids or agrees to aid such other person in planning or committing it; or
  - (ii) solicits, commands, encourages or requests such other person to commit it; or
  - (iii) his or her conduct is expressly declared by law to establish his or her complicity.
- (b) A person is not an accomplice in a crime committed by another person if:
  - (i) he or she is a victim of that crime; or
  - (ii) he or she terminates his complicity prior to the commission of the crime, and either

gives timely warning to the law enforcement authorities or otherwise makes a good faith effort to prevent commission of the crime.

#### 10.4.4            Penalty

Persons that are accomplices to a crime or accountable for the acts of another person who commits a crime shall be subject to the same penalty as if they had committed the crime themselves.

#### 10.4.5            Lesser Included Offenses

- (a) An offender may be convicted of an offense included in an offense charged without having been specifically charged with the lesser included offense. An offense is included when:
  - (i) it is established by proof of the same or less than all the facts required to establish the commission of the offense charged;
  - (ii) it consists of attempt or solicitation to commit the offense charged or to commit an offense otherwise included therein; or
  - (iii) it differs from the offense charged only in that it is a less serious injury or risk of injury to the same person, property, or Tribal interest, or a lesser kind of culpability suffices to establish its commission.
- (b) The Tribal Court need not charge the jury with respect to an included offense unless there is a rational basis for a verdict acquitting the defendant of the offense charged and convicting the defendant of the lesser included offense.

### 10.5                DEFENSE

#### 10.5.1            Self-Defense

The use, attempt or threat to use force toward the person of another is not illegal in the following circumstances:

- (a) Whenever a law enforcement officer reasonably believes it is necessary in the performance of a legal duty, or by a person assisting the officer, so long as the force used is not more than is necessary.
  - (i) The use of deadly force by a law enforcement officer is justifiable when the officer believes beyond a reasonable doubt that a suspect, if not apprehended, poses an immediate threat of serious physical injury or harm to the officer or others.
- (b) Whenever used by a party about to be injured or by another lawfully aiding him or her, in preventing or attempting to prevent an offense against his or her person, or a malicious trespass, or other malicious interference with property lawfully in his or her possession, so long as the force is not more than is necessary;
- (c) Whenever reasonably used by a person to detain someone who enters or unlawfully

remains in a building or on real property lawfully in possession of the person, so long as such detention is reasonable in duration and manner to investigate the reason for the detained person's presence on the premises, and so long as the premises in question did not reasonably appear to be intended to be open to members of the public;

- (d) Whenever used by any person to prevent a mentally ill, mentally incompetent or intoxicated person from committing an act dangerous to any person, or in enforcing necessary restraint for the protection or restoration to health of the person, during such period only as is necessary to obtain legal authority for the restraint or custody of the person.

#### 10.5.2            Duress

- (a) In any prosecution for a crime it is a defense that:
  - (i) The actor participated in the crime under compulsion by another who by threat or use of force created an apprehension in the mind of the actor that in case of refusal the actor or another would be subject to immediate substantial bodily injury; and
  - (ii) That such apprehension was reasonable upon the part of the actor; and
  - (iii) The actor would not have participated in the crime except for the duress involved.
- (b) The defense of duress is not available if the actor intentionally or recklessly places himself in a situation in which it is probable that he will be subject to duress.

#### 10.5.3            Entrapment

- (a) In any prosecution for a crime it is a defense that:
  - (i) The criminal design originated in the mind of law enforcement officials, or any person acting under their direction, and
  - (ii) The actor was lured or induced to commit a crime the actor had not otherwise intended to commit.
- (b) The defense of entrapment is not established by showing only that law enforcement officials merely afforded the actor an opportunity to commit a crime.

#### 10.5.4            Intoxication

Intoxication may not be raised as a defense to an act committed by a person while in a state of voluntary intoxication. However, intoxication may be asserted in relation to the degree of intent formed by the defendant.

#### 10.5.5            Insanity

To establish the defense of insanity, it must be shown by a preponderance of the evidence that at the time of the commission of the offense, as a result of mental disease or defect, the mind of the actor was affected to such an extent that:

- (a) He or she was unable to perceive the nature and quality of the act with which he or she is charged; or
- (b) He or she was unable to tell right from wrong with reference to the particular act charged.

10.5.6            Excusable Homicide

Homicide is excusable when committed by accident or misfortune in doing any lawful act by lawful means, with ordinary caution and without any unlawful intent.

10.5.7            Justifiable Homicide

Homicide is justifiable when it is reasonably believed by the slayer to be necessary to prevent an imminent danger of serious bodily injury or death to himself or herself or to another. When determining whether the slayer reasonably believed he or she was in imminent danger, the court may take into consideration any history of physical abuse upon the slayer by the person slain.

10.6                ANTICIPATORY OFFENSES

10.6.1            Attempt

- (a) A person commits the offense of attempt when, with the purpose to commit a specific offense, the person does any act towards the commission of such offense.
- (b) It shall not be a defense to a charge of attempt that because of a misapprehension of the circumstances it would have been impossible for the accused to commit the offense attempted.
- (c) A person convicted of attempt shall be punished not to exceed the maximum sentence provided for the offense attempted.
- (d) A person shall not be liable under this section if, under circumstances manifesting a voluntary and complete renunciation of the criminal purpose, the person avoided the commission of the offense attempted by abandoning the criminal effort.
- (e) Proof of the completed offense does not bar conviction for the attempt.

10.6.2            Conspiracy

- (a) A person commits the offense of conspiracy when, with the purpose that an offense be committed, the person agrees with another to the commission of the offense. No person may be convicted of conspiracy to commit an offense unless an act in furtherance of such agreement has been committed by the person or by a co-conspirator.
- (b) “Act in Furtherance”

- (i) "Act in furtherance" is any course of conduct which makes it more probable than not that an act towards the commission of an offense will occur and the person's present conduct is not terminated.
  - (ii) Proof of an "act in furtherance" may be drawn from the circumstances surrounding the involved parties' actions and does not require direct proof of an agreement.
- (c) It shall not be a defense to conspiracy that the person or persons with whom the accused has conspired:
- (i) has not been prosecuted or convicted;
  - (ii) has been convicted of a different offense;
  - (iii) is not amenable to justice;
  - (iv) has been acquitted; or
  - (v) lacked the capacity to commit the offense.
- (d) A person convicted of conspiracy shall be punished not to exceed the maximum sentence provided for the offense which is the object of the conspiracy.
- (e) Evidence of membership in a criminal street gang shall be sufficient to demonstrate that the defendant has agreed with another to the commission of an offense, with the purpose that an offense be committed.

HISTORICAL AND STATUTORY NOTES

Subsection (e) of this section added by Tribal Council Resolution 56-2010 dated June 22, 2010.

10.6.3            Solicitation

- (a) A person commits the offense of solicitation when, with the purpose that an offense be committed, he commands, encourages, or facilitates the commission of that offense.
- (c) A person convicted of solicitation shall be punished not to exceed the maximum provided for the offense solicited.

10.7            OFFENSES AGAINST PERSONS

10.7.1            Abduction

Any person, who shall willfully take away, restrain, or detain another person against his or her will, shall be guilty of the offense of abduction.

Abduction is a Class II offense.

10.7.2            Assault

Any person who shall attempt to inflict serious or substantial bodily harm to another person or who poses an imminent threat of such harm shall be guilty of assault.

Assault is a Class II offense.

#### 10.7.3 Battery in the First Degree

A person is guilty of battery in the first degree if he or she:

- (a) Assaults another with a firearm or any deadly weapon or by force or means likely to produce serious or substantial bodily harm; or
- (b) Assaults another and inflicts serious or substantial bodily harm.

Battery in the first degree is a Class I offense.

#### 10.7.4 Battery in the Second Degree

Any person who shall willfully strike another person or otherwise inflict bodily injury on another person where the act does not constitute battery in the first degree is guilty of battery in the second degree.

Battery in the second degree is a Class II offense.

#### 10.7.5 Contributing to the Injury of a Minor

A person is guilty of contributing to the injury of a minor if he or she furnishes alcohol or a controlled substance to a minor who is substantially or seriously injured by the ingestion of the alcohol or controlled substance or because of resulting intoxication.

Contributing to the Injury of a minor is a Class III offense.

#### 10.7.6 Extortion

- (a) Extortion means to knowingly obtain or attempt to obtain by threat property or services of the owner and specifically includes sexual favors.
- (b) A person is guilty of Extortion if:
  - (i) he or she commits extortion by means of a threat as it is defined in this Title; or
  - (ii) he or she commits extortion by means of a threat to accuse any person of a crime or cause criminal charges to be instituted against a person.
- (c) It is a defense to any prosecution for Extortion that the actor reasonably believed the threatened criminal charge to be true and that the actor's only purpose was to compel or induce the person threatened to take reasonable action to make good the wrong which was the subject of the threatened charge.

Extortion is a Class II offense.

10.7.7            Harassment in the First Degree

A person is guilty of harassment in the first degree if he or she:

- (a)    Violates any civil harassment or temporary restraining order barring the person from contact with another; or
- (b)    On more than one occasion subjects a person to behavior which constitutes harassment in the second degree.

Harassment in the first degree is a Class II offense.

10.7.8            Harassment in the Second Degree

A person is guilty of harassment in the second degree if:

- (a)    He or she threatens:
  - (i)    To cause bodily injury in the future to the person threatened or to any other person; or
  - (ii)   To cause physical damage or destruction to the property of a person other than the actor; or
  - (iii)  To subject the person threatened or any other person to physical confinement or restraint; or
  - (iv)  Maliciously to do any other act which is intended to substantially harm the person threatened or another with respect to his or her physical or mental health or safety; and
- (b)    The person by words or conduct places the person threatened in reasonable fear that the threat will be carried out.

Harassment in the second degree is a Class III offense.

10.7.9            Stalking

- (a)    A person commits the offense of stalking if the person purposely or knowingly causes another person substantial emotional distress or reasonable apprehension of bodily injury or death by repeatedly:
  - (i)    following a person; or
  - (ii)   harassing, threatening, or intimidating the stalked person, in person or by phone, by mail, or by other action, device, or method.
- (b)    For the first offense, a conviction of stalking is a Class III offense over which the Tribes have exclusive jurisdiction. A second or subsequent offense or a first offense against a victim who was under the protection of a protective order directed at the offender, is a Class II offense. A person convicted of stalking may be sentenced to pay all medical, counseling, and other costs incurred by or on behalf of the victim as a result of the offense.



- (c) Upon presentation of credible evidence of violation of this section, a protective order may be granted restraining a person from engaging in the activity described in subsection (a).
- (d) Attempts by the accused person to contact or follow the stalked person after the accused person has been given actual notice that the stalked person does not want to be contacted or followed constitutes prima facie evidence that the accused person purposely or knowingly followed, harassed, threatened, or intimidated the stalked person.

#### 10.7.10      Homicide by Abuse

A person is guilty of homicide by abuse if, under circumstances manifesting an extreme indifference to human life, the person causes the death of a child, a developmentally disabled person, or a dependent adult.

Homicide by abuse is a Class I offense.

#### 10.7.11      Indecent Liberties

A person is guilty of indecent liberties when he or she knowingly causes another person to have sexual contact with him or her or another;

- (a) By forcible compulsion; or
- (b) When the other person is less than fourteen years of age; or
- (c) When the other person is less than 16 years old and the perpetrator is more than 48 months older than the victim; or
- (d) When the other person is incapable of consent by being mentally incompetent, mentally incapacitated, or physically helpless.

Indecent Liberties is a Class II offense.

#### 10.7.12      Kidnapping

A person is guilty of kidnapping if the person abducts another person with intent to:

- (a) hold the person as a shield or hostage; or
- (b) facilitate commission of any criminal offense; or
- (c) inflict bodily injury on the person; or
- (d) inflict extreme emotional distress on the person or a third person; or

- (e) interfere with the performance of any governmental function.

Kidnapping is a Class I offense.

#### 10.7.13      Manslaughter

A person is guilty of manslaughter when:

- (a) He or she recklessly, or with criminal negligence, causes the death of another person; or
- (b) He or she intentionally and unlawfully kills an unborn quick child by inflicting any injury upon the mother of such child; or
- (c) He or she furnishes alcohol or a controlled substance to a minor whose death is caused by the ingestion of the alcohol or controlled substance or because of resulting intoxication.

Manslaughter is a Class I offense.

#### 10.7.14      Murder

A person is guilty of murder when:

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

Murder is a Class I offense, defendants found guilty of which shall be sentenced to the maximum term of confinement and will be entitled only to suspension of any portion of the sentence that includes the imposition of a fine.

10.7.15      Negligent Homicide

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

Negligent homicide is a Class II offense.

10.7.16      Promoting a Suicide

A person is guilty of promoting a suicide when he or she:

- (a) Knowingly causes or aids another person to commit suicide or attempt to commit suicide; or
- (b) Has knowledge that a person is planning to commit suicide and does not take reasonable steps to prevent the suicide.

Promoting a Suicide is a Class II offense.

10.7.17      Rape in the First Degree

- (a) A person is guilty of rape in the first degree when such person engages in sexual intercourse with another person by forcible compulsion where the perpetrator or an accessory:
  - (i) Uses or threatens to use a deadly weapon or what appears to be a deadly weapon; or
  - (ii) Kidnaps the victim; or
  - (iii) Inflicts serious physical injury, including but not limited to physical injury which renders the victim unconscious; or
  - (iv) Feloniously enters into the building or vehicle where the victim is situated.
- (b) A person is guilty of rape in the first degree when, under circumstances not outlined in NTC 10.07.17(a), the person engages in sexual intercourse with another person:
  - (i) By forcible compulsion;
  - (ii) When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated;
  - (iii) When the victim is developmentally disabled and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim;
  - (iv) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual intercourse occurs during a treatment session, consultation, interview, or

- examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual intercourse with the knowledge that the sexual intercourse was not for the purpose of treatment;
- (v) When the victim is a resident of a facility for mentally disordered or chemically dependent persons and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim; or
  - (vi) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who has a significant relationship with the victim.
- (c) Rape in the first degree is a class I offense, defendants found guilty of which shall be sentenced to the maximum term of confinement and will be entitled only to suspension of any portion of the sentence that includes the imposition of a fine.

#### 10.7.18 Rape in the Second Degree

- (a) A person is guilty of rape in the second degree when, under circumstances not constituting rape in the first degree, such person engages in sexual intercourse with another person, not married to the perpetrator:
- (i) Where the victim did not consent to sexual intercourse with the perpetrator and such lack of consent was clearly expressed by the victim's words or conduct, or
  - (ii) Where there is threat of substantial unlawful harm to property rights of the victim.
- (b) Rape in the second degree is a class I offense.

#### 10.7.19 Rape of a Child in the First Degree

- (a) A person is guilty of rape of a child in the first degree when such person:
- (i) Engages in sexual intercourse with another person not married to the perpetrator where the perpetrator is over the age of twelve (12) years; and
  - (ii) The victim is under the age of (12) years.
- (b) Consent of the victim does not constitute a defense to the charge.
- (c) It is an affirmative defense if the defendant can show that he or she reasonably believed that the victim was over 16 years of age.

Rape of a child in the first degree is a Class I offense, defendants found guilty of which shall be sentenced to the maximum term of confinement and will be entitled only to suspension of any portion of the sentence that includes the imposition of a fine.

#### 10.7.20 Rape of a Child in the Second Degree

- (a) A person is guilty of rape of a child in the second degree when such person:
  - (i) Engages in sexual intercourse with another person not married to the perpetrator where the perpetrator is over the age of sixteen (16) years; and
  - (ii) The victim is under the age of fourteen (14) years and over the age of twelve (12) years.
- (b) Consent of the victim does not constitute a defense to the charge.
- (c) It is an affirmative defense if the defendant can show that he or she reasonably believed that the victim was over 16 years of age.

Rape of a Child in the second degree is a Class I offense.

10.7.21      Rape of a Child in the Third Degree

- (a) A person is guilty of rape of a child in the third degree when such person:
  - (i) Engages in sexual intercourse with another person not married to the perpetrator where the perpetrator is over the age of eighteen (18) years; and
  - (ii) The victim is under the age of sixteen (16) years and over the age of fourteen (14) years.
- (b) Consent of the victim does not constitute a defense to the charge.
- (c) It is an affirmative defense if the defendant can show that he or she reasonably believed that the victim was over 16 years of age.

Rape of a Child in the third degree is a Class II offense.

10.7.22      Reckless Endangerment

A person is guilty of reckless endangerment if (s)he recklessly engages in conduct which creates a substantial risk of death or serious physical injury to another person.

Reckless endangerment is a Class II offense.

10.7.23      Robbery

- (a) A person commits the offense of robbery if, in the course of committing a theft, the person:
  - (i) inflicts bodily harm upon another;
  - (ii) threatens to inflict bodily harm upon any person;
  - (iii) purposely or knowingly puts any person in fear of immediate bodily harm; or
  - (iv) commits or threatens to commit any Class I or II offense other than theft.
- (b) "In the course of committing a theft" includes acts which occur in an attempt to commit

theft, in the commission of a theft, or in flight after the attempt or commission of a theft.

- (c) Robbery is a Class I offense.

#### 10.7.24      Transmitting Communicable Diseases

- (a) A person is guilty of transmitting communicable diseases if he or she is infected with a communicable disease, including, but not limited to HIV, AIDS, syphilis, herpes or gonorrhea, which is incurable or otherwise dangerous to the public health, and knowingly exposes another person to the disease.
- (b) It is a defense to the charge of transmitting a communicable disease that the person so exposed was over the age of eighteen (18) years, had full knowledge of the disease and voluntarily undertook the risk of exposure to such disease.

Transmitting communicable diseases is a Class I offense.

### 10.8            OFFENSES AGAINST PROPERTY

#### 10.8.1          Arson

A person is guilty of arson if he or she knowingly and maliciously causes a fire or explosion which damages a building or any structure, or any wharf, dock, motor vehicle, water craft, aircraft, bridge, timber, or any lumber, shingle or other timber products, or any property.

If the damage caused by the action exceeds \$1,000.00 it is a Class I offense.

If the damage caused by the action exceeds \$500.00 but is less than \$1,000.00 it is a Class II offense.

If the damage caused by the action does not exceed \$500.00 it is a Class III offense.

#### 10.8.2          Burglary in the First Degree

A person is guilty of burglary in the first degree if:

- (a) With intent to commit a crime against a person or property therein;
- (b) the person enters or remains unlawfully in a building or dwelling; and
- (c) the actor or another participant in the crime is armed with a deadly weapon or assaults any person therein.

Burglary in the first degree is a Class I offense.

10.8.3            Burglary in the Second Degree

A person is guilty of burglary in the second degree if;

- (a)     With intent to commit a crime against a person or property therein;
- (b)     The person enters or remains unlawfully in a building or dwelling.

Burglary in the second degree is a Class II offense.

10.8.4            Burglary – Inferences and Other Crimes

- (a)     In any prosecution for burglary, any person who enters or remains unlawfully in a building may be inferred to have acted with intent to commit a crime against a person or property therein unless such entering or remaining can be explained by evidence satisfactory to the trier of fact to have been made without such criminal intent.
- (b)     Every person who in the commission of a burglary shall commit any other crime may be punished therefore as well as for the burglary and may be prosecuted for each crime separately.

10.8.5            Cruelty to Animals

A person is guilty of cruelty to animals if such person:

- (a)     Tortures, mistreats, mutilates, overrides, overloads any animal; or
- (b)     Abandons any animal; or
- (c)     Deprives food or drink to any animal.

Cruelty to animals is a Class III offense.

10.8.6            Embezzlement

A person is guilty of embezzlement if:

- (a)     Having lawful custody of property not his or her own;
- (b)     He or she appropriates the same for his or her own use with intent to deprive the owner thereof.

Embezzlement is a Class I offense if the amount of property involved exceeds \$1,000.00 in value.

Embezzlement is a Class II offense if the amount of property involved exceeds \$500.00 in value but is less than \$1,000.00 in value.

Embezzlement is a Class III offense if the amount of property involved is less than \$500.00.

#### 10.8.7          Forgery

A person is guilty of forgery if:

- (a) With intent to injure or defraud;
- (b) He or she possesses, offers, disposes of, signs or put of as true a written instrument which (s)he knows to be a false imitation.

Forgery is a Class I offense if the action involves property with a value of more than \$1,000.00.

Forgery is a Class II offense if the action involves property with a value of less than \$1,000.00 and more than \$500.00.

Forgery is a Class III offense if the action involves property with a value of less than \$500.00.

#### 10.8.8          Fraud

A person is guilty of fraud if:

- (a) By willful misrepresentation or deceit;
- (b) He or she obtains money or any other property from another.

Fraud is a Class I offense if the fraud affects property with a value of more than \$1,000.00.

Fraud is a Class II offense if the fraud affects property with a value of more than \$500.00 and less than \$1,000.00.

Fraud is a Class III offense if the fraud affects property with a value of less than \$500.00.

#### 10.8.9          Malicious Mischief

A person is guilty of malicious mischief if (s)he knowingly and maliciously:

- (a) Causes damage to the property of another; or
- (b) Causes an interruption or impairment of service rendered to the public by physically damaging or tampering with an emergency vehicle, or property of the Nisqually Tribe, or of a public utility or mode of public transportation, power or communication.



If the damage caused by the action exceeds \$1,000.00 or causes an interruption or impairment of service rendered to the public by physically damaging or tampering with public property it is a Class I offense.

If the damage caused by the action exceeds \$500.00 but is less than \$1,000.00 it is a Class II offense.

If the damage does not exceed \$500.00 it is a Class III offense.

#### 10.8.10      Possession of Stolen Property

A person is guilty of possessing stolen property if:

- (a) He or she receives, aids in receiving, or conceals or aids in concealing any property; and
- (b) He or she knows, or reasonably should have known, that the property was stolen, embezzled or obtained by fraud.

Possession of stolen property is a Class III offense.

#### 10.8.11      Theft

A person is guilty of theft if he or she:

- (a) Wrongfully obtains or exerts unauthorized control over the property or services of another with intent to deprive him or her of such property or services; or
- (b) By color or aid of deception obtains control over the property of another or the value thereof with intent to deprive him or her of such property or services; or
- (c) To appropriate lost or misdelivered property or services of another, or the value thereof, with intent to deprive him or her of such property or services.

Theft is a Class I offense if the value of the property or services exceeds \$1,000.00.

Theft is a Class II offense if the value of the property or services exceeds \$500.00 but is less than \$1,000.00 in value.

Theft is a Class III offense if the value of property or services is less than \$500.00 in value.

#### 10.8.12      Theft of Timber

- (a) A person who, without first obtaining a permit from the Nisqually Tribe, cuts any timber or removes any forest product on the Tribe's lands; or
- (b) A person who, without permission of the owner, cuts any timber or removes any forest

product from that owner's land;

Shall be guilty of theft of timber.

Theft of timber is a Class II offense and in addition to any other penalties the defendant shall be required to pay treble damages as restitution to the owner.

#### 10.8.13 Unlawful Issuance of Checks

A person is guilty of unlawful issuance of checks if:

- (a) He or she, with the intent to defraud;
- (b) Utters, makes, draws or delivers to another person any check or draft on a bank or other depository for the payment of money;
- (c) Knowing at the time of such drawing or delivery, that he or she has not sufficient funds in said bank to meet said check or draft in full upon its presentation.

Unlawful issuance of a check is a Class I offense if the amount of the money involved exceeds \$1,000.00.

Unlawful issuance of a Check is a Class II offense if the amount of the money involved exceeds \$500.00 but is less than \$1,000.00.

Unlawful issuance of a check is a Class III offense if the amount of the money involved is less than \$500.00.

#### 10.8.14 Vehicle Prowling

- (a) A person is guilty of vehicle prowling if:
  - (i) With intent to commit a crime against a person or property therein;
  - (ii) He or she enters or remains unlawfully in a motor vehicle, an aircraft, or a water craft.
- (b) In any prosecution for vehicle prowling, any person who enters or remains unlawfully in a vehicle, aircraft or a water craft may be inferred to have acted with intent to commit a crime against a person or property therein unless such entering or remaining can be explained by evidence satisfactory to the trier of fact to have been made without such criminal intent.
- (c) Every person who in the commission of a vehicle prowling shall commit any other crime may be punished therefore as well as for the vehicle prowl and may be prosecuted for each crime separately.

Vehicle prowling is a Class III offense.

10.8.15      Trespass

- (a) A person commits the offense of trespass by knowingly or purposely and without express or implied privilege:
  - (i) Entering or remaining in an unoccupied structure;
  - (ii) Entering or remaining in or upon the premises of another;
  - (iii) Entering any vehicle or any part thereof; or
  - (iv) Allowing livestock to occupy or graze on the cultivated or enclosed land of another.
  - (v) Entering onto the Nisqually Reservation after having been excluded from the reservation pursuant to Title 46.
- (b) A privilege to enter may be extended by explicit invitation, license, or permission from the landowner or any other authorized person, or by law.
- (c) Access to Tribal lands, waters, and natural resources by persons who are not Tribal members is restricted as provided by Tribal and federal law. Tribal members crossing Reservation lands in order to exercise hunting and fishing rights retained by treaty do so with privilege.
- (d) A privilege to enter may be revoked at any time by personal communication of notice by the landowner or other authorized person to the entering person.
- (e) Trespass is a Class III offense.

10.9              OFFENSES AGAINST PUBLIC ORDER

10.9.1          Bail Jumping

A person is guilty of bail jumping if:

- (a) He or she has been released by court order with the requirement of a subsequent personal appearance before the court and the person knowingly fails to appear as required.

Bail jumping is a Class II offense.

10.9.2          Bribery

A person is guilty of bribery if:

- (a) With intent to secure a particular result in a particular matter involving the exercise of a public officer's vote or judgment or other action in his or her official capacity, the person offers, confers or agrees to confer any pecuniary benefit on such public servant; or
- (b) Being a public officer a person requests, accepts or agrees to accept any pecuniary benefit pursuant to an agreement or understanding that his or her vote, judgment or action as a

public servant will be used to secure a particular result in a particular matter.

- (c) It is no defense to a prosecution for bribery that the public official was not qualified to act in the desired way because he or she had not yet assumed office, lacked jurisdiction over the matter, or for any other reason.

Bribery is a Class II offense.

### 10.9.3      Escape

A person is guilty of escape if:

- (a) Being in the lawful custody of a law enforcement officer or after having been placed under arrest, the person removes himself/herself or attempts to remove himself/herself from official detention without permission and before he or she is entitled to his or her liberty by the process of law; or
- (b) The person assists another person to escape or attempt to escape from official detention; or
- (c) The person fails to return to official detention following leave granted for a specific purpose for a specific time.

Escape is a Class II offense.

### 10.9.4      Indecent Exposure

A person is guilty of indecent exposure if:

- (a) Such person publicly exposes or exposes to another person, without that person's permission or consent, his or her genitals, or anus; and
- (b) Under circumstances where it is likely to cause affront or alarm.

Indecent exposure is a Class III offense.

Indecent exposure is a Class II offense if such person exposes himself or herself to a person under the age of fifteen (15) years.

### 10.9.5      Intimidating a Public Servant

A person is guilty of intimidating a public servant if, by use of force, threat or intimidation, he or she attempts to influence a peace officer's or a public officer's vote, opinion or other official action.

Intimidating a public servant is a Class II offense.

10.9.6            Introducing Contraband

- (a) A person is guilty of introducing contraband if the person knowingly provides contraband or a weapon to any person confined in a detention facility.
- (b) For the purposes of this subsection, contraband includes alcohol, any deadly weapon or instrument that could be used as a weapon, and any controlled substances as defined by state, federal or tribal law.

Introducing contraband is a Class II offense.

10.9.7            Keeping a Disorderly Premises

A person is guilty of keeping a disorderly premises if he or she keeps a house or place of business and negligently permits:

- (a) The use of drugs or alcohol by minors; or
- (b) The unlawful use of controlled substances; or
- (c) Any loud, boisterous noise or any riotous or disorderly conduct or fighting which may unreasonably disturb another; or
- (d) Any other activities which are defined as criminal under any law applicable on the Nisqually Indian Reservation.

Keeping a disorderly house is a Class II offense.

10.9.8            Littering

A person is guilty of littering if:

- (a) He or she disposes of any garbage, waste or other form of litter;
- (b) In a place that has not been authorized for waste disposal by the Nisqually Indian Tribe.

Littering is a Class III offense.

10.9.9            Obstructing Justice

A person is guilty of obstructing justice if:

- (a) Without lawful excuse he or she refuses or knowingly fails to make or furnish any report or information lawfully required of him by a public official or peace officer; or

- (b) In any such statement or report makes any knowingly untrue statement to a public official or peace officer; or
- (c) Knowingly hinders, delays or obstructs a public official or peace officer in the discharge of his official powers or duties.

Obstructing justice is a Class II offense.

#### 10.9.10      Official Misconduct

A Nisqually Tribal official or public officer is guilty of official misconduct if, with intent to obtain a benefit or to deprive another person of a lawful right or privilege, he or she:

- (a) Commits an unauthorized act under color of law; or
- (b) Refrains from performing a duty imposed upon him or her by law.

Official misconduct is a Class II offense.

#### 10.9.11      Disorderly Conduct

A person commits the offense of disorderly conduct by knowingly disturbing the peace of another by:

- (a) knowingly uttering fighting words with a direct tendency to violence, challenging to fight, or fighting;
- (b) making loud or unusual noises;
- (c) using physically threatening, profane, or abusive language;
- (d) discharging firearms, except at a shooting range during established hours of operation;
- (e) obstructing vehicular or pedestrian traffic on a public way without good cause;
- (f) rendering the free entrance or exit to public or private places impassable without good cause;
- (g) disturbing or disrupting any lawful assembly or public meeting after having been asked to cease such disturbance or disruption or leave the premises by one in authority at the assembly or meeting;
- (h) appearing in a public place while under the influence of alcohol or controlled substance under circumstances where the person poses a danger to himself or another or another's property; or

- (i) appearing in a public place in possession of an open container of alcohol.

Disorderly conduct is a Class III offense.

10.9.12      Harming a Police Dog

- (a) A person commits the offense of harming a police dog if he or she purposely or knowingly shoots, kills, or otherwise injures a police dog being used by a Tribal law enforcement officer in discharging or attempting to discharge any legal duty in a reasonable and proper manner.
- (b) Harming a police dog is a Class I offense.

10.9.13      Participating in a Riot

- (a) A person is guilty of the crime of participating in a riot if acting with two or more other persons, such person knowingly participates in the use of, or threatened use of, force against any other person or property.
- (b) Being at a place where a riot is occurring or engaging in non-violent protests does not constitute the crime of participating in a riot.

Participating in a riot is a Class II offense.

10.9.14      Perjury

A person is guilty of perjury if in any official proceeding, or while under oath, he or she makes a false statement, which he knows to be false.

Perjury is a Class II offense.

10.9.15      Unsworn falsification to authorities

- (a) A person commits an offense under this section if, with purpose to mislead a Tribal public servant in performing his or her official function, he or she
  - (i) makes any written false statement which he or she does not believe to be true,
  - (ii) purposely creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements therein from being misleading,
  - (iii) submits or invites reliance on any writing which he or she knows to be forged, altered, or otherwise lacking in authenticity, or
  - (iv) submits or invites reliance on any sample, specimen, map, boundary mark, or other object which he or she knows to be false.

- (b) Unsworn falsification is a Class III offense.

10.9.16      Petition Misconduct

- (a) A person commits an offense under this section if he or she
- (i) signs a petition with a name of another person or fictitious person, or any name other than his or her true name; or
  - (ii) signs a petition knowing that he or she is not eligible to sign under applicable Tribal Ordinance, Resolution or Constitutional provision; or
  - (iii) in signing a petition, makes a false statement as to his or her residence, age, tribal membership or other qualifications necessary to sign the petition; or
  - (iv) knowing that a petition contains false signatures or statements, files the petition, or puts the petition off with intent that it should be filed, as a true and genuine petition; or
  - (v) for any consideration or gratuity or promise thereof, signs or declines to sign any petition; or
  - (vi) provides or receives consideration for soliciting or procuring signatures on a petition if any part of the consideration is based on the number of signatures solicited or procured, or offers to provide or agrees to receive such consideration any of which is based on the number of signatures solicited or procured; or
  - (vii) gives or offers any consideration or gratuity to any person to induce him or her to sign or not to sign any petition; or
  - (viii) interferes with or attempts to interfere with the right of any voter to sign or not to sign a petition by threats, intimidation, or any corrupt means or practice.
- (b) Petition misconduct is a Class III offense.

10.9.17      False Reports to Law Enforcement Officers

- (a) A person commits the offense of giving false reports to law enforcement officers by knowingly;
- (i) giving false information to any law enforcement officer with the purpose to implicate another,
  - (ii) reporting to a law enforcement officer an offense or other incident within their concern, knowing that the alleged offense or incident did not occur, or
  - (iii) pretending to furnish such officers with information relating to an offense or incident when the person does not have information relating to such offense or incident.
- (b) Giving false reports to law enforcement officers is a Class III offense

10.9.18      Prostitution



A person is guilty of prostitution if such person engages, offers and/or agrees to engage in sexual conduct with another person for a fee or in exchange for services. Sexual conduct includes “sexual intercourse” and “sexual contact” as defined in this Chapter.

Prostitution is a Class II offense.

#### 10.9.19      Rendering Criminal Assistance

A person is guilty of rendering criminal assistance if:

- (a) With intent to prevent, hinder or delay the apprehension or prosecution of another person who he or she knows:
  - (i) has committed a crime or juvenile offense; or
  - (ii) is being sought by law enforcement officials for the commission of a crime or a juvenile offense; or
  - (iii) has escaped from a detention facility;
  
- (b) He or she assists another person in any of the following ways:
  - (i) Harbors or conceals such person; or
  - (ii) Warns such person of impending discovery or apprehension; or
  - (iii) Provides such person with money, transportation, disguise or other means of avoiding discovery or apprehension; or
  - (iv) Prevents or obstructs, by the use of force, deception or threat, anyone from performing an act that might aid in the discovery or apprehension of such person; or
  - (v) Conceals, alters or destroys any physical evidence that might aid in the discovery or apprehension of such person; or
  - (vi) Provides such person with a weapon.

Rendering criminal assistance is a Class II offense.

#### 10.9.20      Requesting Unlawful Compensation

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

Requesting unlawful compensation is a Class II offense.

#### 10.9.21      Resisting Arrest

A person is guilty of resisting arrest if he or she intentionally prevents or attempts to prevent a peace officer from arresting him or her.

Resisting arrest is a Class II offense.

10.9.22      Tampering With a Witness

A person is guilty of tampering with a witness if:

- (a) Such person directs a threat to:
  - (i) A former witness because of the witness' testimony in any official proceeding; or
  - (ii) A current witness or a person he or she has reason to believe is about to be called as a witness in an official proceeding; or
- (b) Such person attempts to:
  - (i) Influence the testimony of a witness; or
  - (ii) Induce that person to elude legal process summoning him or her to testify; or
  - (iii) Induce that person to absent himself or herself from such proceedings.

Tampering with a witness is a Class II offense.

10.9.23      Tampering With a Juror

A person is guilty of tampering with a juror if:

- (a) Such person directs a threat to:
  - (i) A former juror because of the juror's vote of decision in any official proceeding; or
  - (ii) A current juror or person he or she has reason to believe is about to be called as a juror in an official proceeding in order to influence the juror's vote or decision.

Tampering with a juror is a Class II offense.

10.9.24      Tampering With Physical Evidence

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

- (a) Destroys, mutilates, conceals, removes, or alters evidence with the intent to impair its appearance, character, or availability in such proceeding or prospective official proceeding; or
- (b) Knowingly presents or offers any false evidence.

Tampering with physical evidence is a Class II offense.

10.9.25      Criminal Contempt

- (a) A person commits the offense of criminal contempt by knowingly engaging in any of the following conduct:

- (i) disorderly, contemptuous, or insolent behavior committed during the sitting of the Tribal Court or the Court of Appeals, in the immediate view and presence of the court, and directly tending to interrupt its proceedings or to impair the respect due its authority;
  - (ii) breaching the peace by causing a disturbance directly tending to interrupt the proceedings of the Tribal Court or the Court of Appeals;
  - (iii) purposely disobeying or refusing any lawful process or other mandate of Tribal Court or the Court of Appeals;
  - (iv) unlawfully refusing to be sworn as a witness in any Tribal Court proceeding or, after being sworn, refusing to answer any legal and proper questions;
  - (v) purposely publishing a false or grossly inaccurate report of a Tribal Court proceeding; or
  - (vi) purposely failing to obey any mandate, process, or notice relative to serving as a juror.
- (b) Criminal contempt is a Class III offense.

10.9.26      Defrauding a Public Utility

- (a) “Defrauding a public utility” means to commit, authorize, solicit, aid, abet, or attempt to:
- (i) Divert, or cause to be diverted, utility services by any means whatsoever;
  - (ii) Make, or cause to be made, a connection or reconnection with property owned or used by the utility to provide utility service without the authorization or consent of the utility;
  - (iii) Prevent a utility meter or other device used in determining the charge for utility services from accurately performing its measuring function by tampering or by any other means;
  - (iv) Tamper with property owned or used by the utility to provide utility services; or
  - (v) Use or receive the direct benefit of all or a portion of the utility service with knowledge of, or reason to believe that, the diversion, tampering, or unauthorized connection existed at the time of the use or that the use or receipt was without the authorization or consent of the utility.
- (b) A person is guilty of defrauding a public utility in the first degree if:
- (i) The utility service diverted or used exceeds two hundred in value; or
  - (ii) Tampering has occurred in furtherance of other criminal activity.
- (iii) Defrauding a public utility in the first degree is a Class II offense.
- (c) A person is guilty of defrauding a public utility in the second degree if:
- (i) The utility service diverted or used is two hundred dollars or less in value; or
  - (ii) A connection or reconnection has occurred without authorization or consent of the utility.
- (iii) Defrauding a public utility in the second degree is a class Class III Offense.
- (d) In any prosecution under this section, the court may require restitution from the defendant, plus court costs plus the costs incurred by the utility on account of the

bypassing, tampering, or unauthorized reconnection, including but not limited to costs and expenses for investigation, disconnection, reconnection, service calls, and expert witnesses.

- (e) Restitution ordered or fines imposed under this chapter do not preclude a utility from collecting damages to which it may be entitled.

#### 10.9.27      Furnishing Liquor and Cannabis to Minors – Possession, Use, and Penalties

- (a) It is unlawful for any person to sell, give, or otherwise supply liquor or cannabis to any person under the age of twenty-one years or permit any person under that age to consume liquor or cannabis on his or her premises or on any premises under his or her control. For the purposes of this subsection, "premises" includes real property, houses, buildings, and other structures, and motor vehicles and watercraft.
- (b) It is unlawful for a person under the age of twenty-one years to be in a public place, or to be in a motor vehicle in a public place, while exhibiting the effects of having consumed liquor or cannabis.
- (c) For purposes of this subsection, exhibiting the effects of having consumed liquor or cannabis means that a person has the odor of liquor or cannabis on his or her breath, the smell of cannabis on their person and either:
  - (i) Is in possession of or close proximity to a container that has or recently had liquor or cannabis substance in it; or
  - (ii) by speech, manner, appearance, behavior, lack of coordination, or otherwise, exhibits that he or she is under the influence of liquor or cannabis.
- (d) Subsections (a) and (b) of this section do not apply to liquor and cannabis given or permitted to be given to a person under the age of twenty-one years by a parent or guardian and consumed in the presence of the parent or guardian, to liquor or cannabis given for medicinal purposes to a person under the age of twenty-one years by a parent, guardian, physician, or dentist, or to liquor or cannabis given to a person under the age of twenty-one years when such liquor or cannabis is being used in connection with religious services and the amount consumed is the minimal amount necessary for the religious service.

Violation of any of the above is a Class III offense.

#### HISTORICAL AND STATUTORY NOTES

Subsection 10.09.27 added by Resolution 12-2014, dated February 11, 2014.

#### 10.10      WEAPONS OFFENSES

##### 10.10.1      Weapons Violation

A person is guilty of a weapons violation if such person:

- (a) Fires a gun within any settled community within the Nisqually Reservation; or
- (b) Fires a gun in any other place where any person might be endangered or any property damaged by it; or
- (c) Fires a gun while under the influence of alcohol or drugs; or
- (d) Aims a firearm, whether loaded or not, at or towards any person; or
- (e) Sets a spring gun; or
- (f) Is in a public place armed with a loaded or unloaded firearm, any explosive device, any instrument with a sharpened blade longer than four inches, or a club longer than twelve inches, concealed upon his or her person, unless (s)he has a current valid permit to carry such a weapon concealed.

Firearms may be discharged at an indoor or outdoor rifle, pistol, or shotgun shooting range located within the limits of a town, city, Tribal housing or community area, or an enclosure that contains a private dwelling. Section 10.10.01 does not apply if the discharge of a firearm is justifiable under this Title.

A weapons violation is a Class II offense.

#### 10.10.2      Illegal Possession of a Firearm

A person is guilty of illegal possession of a firearm if such person:

- (a) Owns a firearm or has one in his or her possession or control; and,
- (b) Within the previous fifteen years, has been convicted by any court of competent jurisdiction of murder, rape, robbery, kidnapping, arson, assault, battery in the first degree or any other crime in which a firearm has been used or displayed or any crime of domestic violence.

Illegal possession of a firearm is a Class I offense.

#### 10.10.3      Sale or Possession of an Illegal Firearm

A person is guilty of sale or possession of an illegal firearm if he or she sells, furnishes, manufactures or has in his or her possession any of the following:

- (a) A machine gun or any part thereof capable of use or assembling or repairing any machine gun;

- (b) A shotgun having a barrel of less than 18 inches in length;
- (c) A weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel of less than 18 inches in length;
- (d) A rifle having a barrel of less than 16 inches in length; or
- (e) A weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel of less than 16 inches in length; or
- (f) A silencer, explosives (other than fireworks that are not prohibited by the Fireworks Code).

Possession of an illegal firearm is a Class I offense.

10.10.4      Carrying or bearing a Switchblade Knife

- (a) Every person who knowingly carries or bears upon his or her person, who carries or bears within or on a motor vehicle or other means of conveyance operated by him or her or who owns, possesses, uses, stores, gives away, sells, or offers for sale a switchblade knife shall be guilty of a Class II offense.
- (b) A bona fide collector whose collection is registered with the Tribal Police is exempted from the provisions of this section.
- (c) For the purpose of this section, a switchblade knife is defined as any knife which has a blade 1 and ½ inches long or longer which opens automatically by hand pressure applied to a button, spring, or other device in the handle of the knife.

10.10.5      Firearm Registration

A person may register any firearm owned by him or her with the Nisqually Tribal Police Department. Such registration may be used as proof of ownership in any future proceedings where the ownership of the firearm is in question.

10.11            OFFENSES AGAINST THE FAMILY

10.11.1        Bigamy

A person is guilty of bigamy if such person intentionally marries or purports to marry another person when either person has a living spouse. In any prosecution under this subsection, it is a defense that at the time of the subsequent marriage:

- (a) The actor reasonably believed the prior spouse was dead; or

- (b) A court had entered a judgment purporting to terminate or annul any prior marriage and the actor did not know such judgment was invalid.

Bigamy is a Class III offense.

#### 10.11.2      Child Abuse

- (a) A parent of a child or the person entrusted with the physical custody of a child is guilty of child abuse if he or she:
  - (i) Recklessly creates a risk of significant bodily injury to a child;
  - (ii) Causes substantial bodily harm by withholding any of the necessities of life from a child; or
  - (iii) Willfully and maliciously commits any assault upon the child; or
  - (iv) Engages in any act of domestic violence in the presence of the child.
- (b) In any prosecution for child abuse, it shall be a defense that the withholding of the basic necessities of life is due to financial inability only if the person charged has made reasonable effort to obtain adequate assistance.
- (c) For the purposes of this subsection the physical discipline of a child is not unlawful when it is reasonable and moderate and is inflicted by a parent, teacher or guardian for purposes of restraining or correcting a child.
- (d) For the purposes of this subsection the following are considered an assault:
  - (i) Throwing, kicking, burning or cutting a child by any person.
  - (ii) Striking a child with a closed fist by any person.
  - (iii) Interfering with a child's breathing.
  - (iv) Threatening a child with a deadly weapon.
  - (v) Doing any other act that is likely to cause and which does cause bodily harm greater than transient pain or minor temporary marks, by any person.

Child abuse is a Class I offense.

#### 10.11.3      Communication With a Minor For Immoral Purposes

A person over the age of eighteen (18) years is guilty of communicating with a minor for immoral purposes if the communication is for the purpose of eliciting a minor to perform a sexual act or engage in sexual conduct.

For the purpose of this provision a minor is a person under the age of eighteen (18) years. Communication with a minor for immoral purposes is a Class II offense.

#### 10.11.4      Custodial Interference

A person is guilty of custodial interference if:

- (a) With the intent to deny access to the child by a parent, guardian, institution, agency or other person having lawful right to custody of the child, the person entices, retains, detains or conceals the child from the parent, guardian, institution, agency or other person having lawful right to physical custody of such child.
- (b) A first conviction of custodial interference is a Class II offense. A second conviction of custodial interference is a Class I offense.
- (c) In any prosecution for custodial interference it is a complete defense, if established by the defendant by a preponderance of the evidence, that the defendant's purpose was to protect the child from imminent physical harm, and that belief in the existence of the imminent physical harm was reasonable.
- (d) Consent of a child does not constitute a defense to a prosecution for custodial interference.

10.11.5      Desertion and Nonsupport of Children

A person is guilty of desertion and nonsupport of children if:

- (a) Such person is under the legal obligation to provide for the child's support or maintenance; and
- (b) Abandons or willfully refuses to provide for the child's support or maintenance.

Desertion and nonsupport is a Class II offense.

10.11.6      Exploitation

- (a) A person is guilty of exploitation of a minor if the person:
  - (i) Compels a minor by threat, force, coercion or invitation to engage in sexually explicit conduct, knowing such conduct will be photographed, videotaped or displayed in any manner; or
  - (ii) Being a parent, legal custodian or person having custody or control of a minor, permits the minor to engage in sexually explicit conduct, knowing the conduct will be photographed, videotaped or displayed in any manner; or
  - (iii) Engages in a sexual act with another in the presence of a minor.
- (b) For the purpose of this provision a minor is a person under the age of eighteen (18) years.

Exploitation is a Class I offense.

10.11.7      Failure to Protect a Child

A person is guilty of failure to protect a child if:



- (a) Being the parent or legal guardian of a child;
- (b) He or she has reason to believe that the child has been, or may become, the victim of a crime; and
- (c) He or she fails to take reasonable action to protect the child from such victimization.

Failure to protect a child is a Class I offense.

#### 10.11.8      Incest

- (a) A person is guilty of incest if such person engages in sexual intercourse or sexual contact with a person whom he or she knows to be related to them, either legitimately or illegitimately; as an ancestor or descendant in the following relationships: brother, sister, son, daughter, grandchild or grandparent, uncle, aunt, nephew, niece, or first cousin.
- (b) As used in this subsection “descendant” includes stepchildren and adopted children under 18 years of age.

Incest is a Class I offense.

#### 10.11.9      Soliciting or Recruiting to Join or to remain a Member of a Criminal Gang, Organization or Enterprise

Every person who by intimidation or duress causes, aids, abets, encourages, solicits, or recruits anyone to become or to remain a member of any group which he knows to be a criminal street gang, organization, or enterprise is guilty of a Class II offense.

#### HISTORICAL AND STATUTORY NOTES

This section added by Tribal Council Resolution 53-2010 dated June 22, 2010.

#### 10.12      CONTROLLED SUBSTANCES OFFENSES

##### 10.12.1      Definitions As used in this section:

- (a) Administer means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body.
- (b) Delivery means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.
- (c) Distribute means to deliver other than by administering or dispensing a controlled substance.
- (d) Cannabis means all parts of the plant of the genus Cannabis and the resin extracted from

any part of the plant. It does not include the fiber produced from the stalks of the plant or sterilized seeds from the plant

- (e) Manufacture means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by:
  - (i) A practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or
  - (ii) A practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.
- (f) Production includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.
- (g) It shall constitute constructive delivery or manufacture of a controlled substance when an individual possesses quantities of a controlled substance that are inconsistent with personal use. For purposes of this paragraph, the following amounts constitute quantities inconsistent with personal use:
  - (i) Three grams or more of a mixture or substance containing a detectable amount of heroin;
  - (ii) Five grams or more of a mixture or substance containing a detectable amount of cocaine;
  - (iii) Two grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers or salts of its isomers;
  - (iv) Fifty grams or more of a mixture or substance containing a detectable amount of hashish;
  - (v) Forty grams or more of a mixture or substance containing a detectable amount of cannabis;
  - (vi) Ten or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;
  - (vii) Twenty grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin;
  - (viii) Fifteen grams or more or 50 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of 3,4-methylenedioxyamphetamine, 3,4-methylenedioxy methamphetamine, 3,4-methylenedioxy-N-ethylamphetamine; or
  - (ix) Fifty or more pills, tablets or capsules of a mixture or substance containing a detectable amount of Oxycodone, Hydrocodone, or other prescription opiates.

Nothing in this paragraph is to limit a finding of delivery or manufacture simply because the above quantities were not found.

#### HISTORICAL AND STATUTORY NOTES

Subsection (g) of this section added by Tribal Council Resolution 57-2010 dated June 22, 2010.

### 10.12.2 Possession of Controlled Substance

(a) Except as authorized by this section, it is unlawful for any person to possess a controlled substance. Any person who violates this section with respect to any controlled substance other than marijuana is guilty of a Class I offense. Any person who violates this section with respect to possession of more than 40 grams of marijuana is guilty of a Class I offense. Any person who violates this section with respect to possession of less than 40 grams of marijuana is a Class II offense. The foregoing marijuana offenses in this subsection shall not impose civil or criminal penalties under Nisqually Tribal law for possession of usable marijuana or marijuana-infused solids or liquids consistent with subsection (2) of this section.

(b) Possession of marijuana (cannabis) in accordance with the following restrictions and prohibitions shall not constitute a violation of this section, this chapter, or any other provision of Nisqually Tribal law:

- (1) Any person 21 years of age or older cannot possess more than one ounce of usable marijuana, 16 ounces of marijuana-infused products in solid form, 72 ounces of marijuana-infused products in liquid form, or seven grams of marijuana concentrate. Any marijuana, marijuana-infused solids, or marijuana-infused liquids must be acquired legally through a source licensed by Washington State and located off of the Nisqually Reservation. Any person who possesses marijuana or marijuana-infused products or concentrates in excess of the foregoing limits, or any person under the age of 21 years who possesses marijuana or marijuana-infused products or concentrates in any amount, may be prosecuted for marijuana offenses as defined by subsection (a) of this section.
- (2) Production, Distribution and Sales Prohibited. It shall be unlawful for any person to grow, produce, process, distribute or sell marijuana or marijuana-infused liquids or solids or concentrate on the Nisqually Reservation, whether or not such person is a qualifying patient or designated provider as defined in Washington State law. A person cannot obtain a Nisqually Tribal business license to be a “marijuana processor” (a person who processes marijuana into usable marijuana products, including packaging, labeling and distributing); “marijuana producer” (person who grows, creates marijuana-infused products or sells marijuana wholesale to marijuana processors); or a “marijuana retailer” (person who sells usable marijuana or marijuana-infused products in a retail outlet). Having a State license for any of the above prohibited activities shall not be a defense to prosecution. Any person who manufactures, cultivates, delivers, or possesses with intent to manufacture or deliver marijuana, marijuana-infused products, or marijuana concentrates may be prosecuted in accordance with this chapter.
- (3) A person cannot use marijuana in any public place or possess marijuana within public view on the Nisqually Reservation. Public view includes, but is not limited to, carrying marijuana in an open shirt pocket, an open purse, on the body of a person in

a manner that is visible to the public, etc. Public places include, but are not limited to, schools, Tribal parking lots, Tribal government vehicles, Tribal businesses and enterprises, Tribal governmental offices, and Tribal medical clinics. Violation of this subsection shall be a Class III offense.

- (4) Subsection (a)(1) of this section shall be construed narrowly to preclude criminal and civil penalties under Nisqually Tribal law only for the possession of the specified amounts of marijuana or marijuana-infused products acquired from a State-licensed source, and shall not preclude arrest or conviction for any other crimes, offenses or infractions. For any charge arising from driving or physical control of a vehicle while under the influence of marijuana, liability may be established by showing that the defendant was under the influence of or affected by marijuana (alone or in combination with other drugs or alcohol) at the time of the offense, or that the defendant had, within two hours after driving or physical control of a vehicle, a THC concentration of 5.00 nanograms per milliliter of whole blood.
  - (5) A person cannot use marijuana in any vehicle, or keep marijuana in any vehicle unless it is in the trunk of the vehicle or other area of the vehicle not normally occupied or directly accessible by the driver or passengers, or in a package, container, or receptacle that has not been opened or the seal broken or the contents partially removed. A utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers.
  - (6) Nothing in this chapter shall modify or supersede the criminal laws of the United States government pertaining to controlled substances.
- (c) Any person lawfully involved in the use, possession or control of any controlled substance shall not be in violation of this section.

HISTORICAL AND STATUTORY NOTES This section modified by Tribal Council Resolution 21-2019 dated February 27, 2019.

## TITLE 10 CRIMES AND TRAFFIC

### CHAPTER III – CRIMINAL TRAFFIC

#### 10.13            PROCEDURES

##### 10.13.1        Criminal Procedures

Title 24, Subchapter IV of the Nisqually Code of Laws, entitled Criminal Procedure, is applicable to the offenses enumerated in this title, except as is inconsistent.

HISTORICAL AND STATUTORY NOTES

The term “subchapter” changed to “chapter” throughout this Title as part of the 2009 reformatting. This Chapter originally enacted by Tribal Council Resolution 3-1992.

### 10.13.2      Sentencing

Any person convicted of a traffic offense within this title shall be sentenced according to the class of offense. The Court, in its discretion, may suspend all or part of a sentence, including minimum sentences, upon the performance of conditions imposed upon the defendant. The following sentences shall be imposed for each class:

Class C – No more than thirty (30) days in jail; or a fine not to exceed Five Hundred Dollars (\$500.00); or both.

Class B – No more than ninety (90) days in jail; or a fine not to exceed One Thousand Dollars (\$1000.00); or both.

Class A – No more than one (1) year in jail; or a fine not to exceed Five Thousand Dollars (\$5000.00); or both.

## 10.14      OFFENSES

### 10.14.1      Failure to appear or respond

Any person who willfully violates his or her signed promise to appear in court regarding a Tribal traffic citation or fails to respond to a Summons or Notice to Appear regarding a criminal traffic citation shall be guilty of a Class C offense.

### 10.14.2      Obedience to law enforcement officers

It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal, or direction of any tribal law enforcement officer, flagger, or firefighter having authority to direct, control or regulate traffic. A signal under this subsection means any signal by hand, voice, siren or emergency light. A person violating this subsection shall be guilty of a Class C offense.

### 10.14.3      Refusal to give identification

It shall be unlawful for any person while operating a vehicle to refuse, when requested by a law enforcement officer, to give his or her name and address and the name and address of the owner of the vehicle, or for such person to give a false name and address. A person violating this subsection shall be guilty of a Class C offense.

10.14.4      Refusal to produce driver's license and/or registration

It shall be unlawful for any person while operating a vehicle to refuse, when requested by a law enforcement officer, to produce his or her driver's license or the vehicle certificate of registration. A person violating this subsection shall be guilty of a Class C offense.

10.14.5      Vehicular homicide

When the death of any person occurs within three (3) years as a result of injury caused by the driving of any person while under the influence of intoxicating liquor or any drug or both, as defined in subsection 10.14.08, or by the operation of a vehicle in a reckless manner or with disregard for the safety of others, the person so operating such vehicle shall be guilty of a Class A offense.

HISTORICAL AND STATUTORY NOTES

Reference to 10.14.11 was an error and was corrected to read 10.14.08 in 2003 amendments.

10.14.6      Vehicular assault Any person who operates a vehicle:

- (a) In a reckless manner causing serious bodily injury to another; or
- (b) While under the influence of intoxicating liquor or any drug or both as defined in subsection 10.14.08, causing serious bodily injury to another shall be guilty of a Class A offense.

Serious bodily injury means a substantial risk of death, serious permanent disfigurement or protracted loss or impairment of any part or organ of the body.

HISTORICAL AND STATUTORY NOTES

Reference to 10.14.11 was an error and was corrected to read 10.14.08 in 2003 amendments.

10.14.7      Reckless driving

Any person who drives a vehicle in willful or wanton disregard for the safety of persons or property or who operates a vehicle in excess of the speed limit by more than 20 miles per hour shall be guilty of a Class B offense.

10.14.8      Driving while under the influence

A person drives while under the influence if he or she drives a vehicle while:

- (a) under the influence of intoxicating liquor or any drug; or

- (b) having .08 (.04 if the person is under the age of 21) grams or more of alcohol per 210 liters of breath as shown by an analysis of the breath, blood or other bodily substance; or
- (c) 5 ng/ml (nanograms per milliliter) of THC or more in your blood stream if person is 21 or older; or
- (d) under the combined influence of intoxicating liquor and any drug.

The fact that a person charged with a violation of this subsection is or has been entitled to use such drug under the laws of this or other jurisdictions shall not constitute a defense to any violation of this subsection. A person driving under the influence shall be guilty of a Class B offense.

HISTORIC AL AND STATUTORY NOTES

Subsection 10.14.08(b) amended by Resolution 16-2014, dated February 18, 2014. Subsection 10.14.08(b) amended by Resolution 81-2008, dated September 3, 2008.

10.14.9      Actual physical control

A person is in physical control of a motor vehicle while under the influence of intoxicating alcohol or any drug if he or she has actual physical control of a vehicle while:

- (a) under the influence of or affected by intoxicating liquor or any drug; or
- (b) has .08 (.04 if the person is under the age of 21) grams or more of alcohol per 210 liters of breath, as shown by analysis of his breath, blood or other bodily substance; or
- (c) 5 ng/ml (nanograms per milliliter) of THC or more in your blood stream if person is 21 or older; or
- (d) under the combined influence of or affected by intoxicating liquor and any drug.

The fact that a person charged with a violation of this subsection is or has been entitled to use such drug under the laws of this or other jurisdiction shall not constitute a defense to any violation of this subsection. Conviction of actual physical control shall be a Class B offense.

HISTORIC AL AND STATUTORY NOTES

Subsection 10.14.09(b) amended by Resolution 16-2014, dated February 18, 2014. Subsection 10.14.09(b) amended by Resolution 81-2008, dated September 3, 2008.

This subsection amended from original by Tribal Council Resolution 82-1992.

10.14.10      “Drugs” what included

The word “drugs” as used in this title shall include but not be limited to those drugs and substances listed under Title 69.50 of the Revised Code of Washington and the Uniform

Controlled Substances Act of 1971, as amended, which list is hereby incorporated as a matter of Tribal law.

10.14.11      Attempting to elude a police officer

Any person operating a vehicle who willfully fails or refuses to immediately bring his or her vehicle to a stop after being given a visual or audible signal to do so by a law enforcement officer shall be guilty of a Class C offense.

HISTORIC AL AND STATUTORY NOTES

The word “Attempt” in the heading changed to “Attempting” to be consistent with other sections of the Title.

10.14.12      Habitual traffic offender-infractions

Any person who has been found to have committed twelve or more traffic infractions within a two-year period shall be declared by the Court to be a habitual offender and his or her driving privilege shall be revoked for a period of no less than one year nor more than five years. Traffic infractions under this section shall include those stated under this Title and traffic infractions under the laws of any state, town or city or any federal law.

HISTORIC AL AND STATUTORY NOTES

Wording “Titles 20 and 20A of this Code” in this subsection amended to “this Title” to be consistent with the consolidation of Codes §§ 20 and 20A into Title 10, Chapters III and IV.

10.14.13      Habitual traffic offender-criminal offenses

Any person who has three or more convictions within a five-year period of the following offenses shall be declared by the Court to be a habitual offender:

- (a)      vehicular homicide (10.14.05)
- (b)      vehicular assault (10.14.06)
- (c)      reckless driving (10.14.07)
- (d)      driving while under the influence (10.14.08)
- (e)      actual physical control (10.14.09)
- (f)      attempting to elude and officer (10.14.11)

The Court shall revoke the driving privilege of a person declared to be a habitual offender for a period of no less than one nor more than five years. In computing the number of convictions, multiple convictions arising from the same incident shall count as a single incident.



Traffic infractions under this section shall include those stated under this Title and traffic infractions under the laws of any state, county, town or city or any federal law.

HISTORICAL AND STATUTORY NOTES

Wording “Title 20 of this Code” in this subsection changed to “this Title” to be consistent with the consolidation of Code § 20 into Title 10.

10.14.14      Transcript or abstract as evidence

A transcript or abstract kept by the Tribal Court or obtained by the Tribe from another jurisdiction may be admitted as evidence in any hearing before the Nisqually Tribal Court and shall be prima facie evidence that the person committed the infraction(s) or offense(s) noted therein. If the person denies that he or she committed the infraction(s) or offense(s), he or she shall have the burden of proving that such fact is untrue.

10.14.15      Implied consent

- (a) Any person who operates a motor vehicle within the jurisdiction of the Nisqually Indian Tribe shall be deemed to have given his or her consent to a chemical test or other tests of his or her blood or breath for the purpose of determining the alcoholic content or presence of drugs in his/her blood, if arrested for any offense where at the time of the arrest, the arresting officer has reasonable grounds to believe the person has been driving or was in actual physical control of a vehicle while under the influence of alcohol or drugs or both.
- (b) Any test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or to have been in actual physical control of a vehicle within the jurisdiction of the Nisqually Indian Tribe while under the influence of alcohol or drugs or both.
- (c) Any officer directing or administering such test or tests shall inform the person:
  - (i) That he or she has the right to refuse the test or tests;
  - (ii) That he or she has the right to have additional tests administered by a qualified person he or she chooses. As used in this subsection, a qualified person shall mean a physician, a registered nurse or a qualified technician.
  - (iii) That refusal of such test or tests shall result in the person forfeiting his or her privilege to drive a motor vehicle within the jurisdiction of the Nisqually Indian Tribe for a period of six (6) months for the first refusal; for a period of not less than six (6) months nor more than one (1) year for additional refusals.
- (d) Any person under arrest for driving a vehicle or while in actual physical control of a vehicle while under the influence of alcohol or drugs or both within the jurisdiction of the Nisqually Indian Tribe, in which arrest results from an accident in which another person has received serious bodily injury or in which a vehicular homicide has occurred, a breath

or blood test or tests may be administered without the consent of the person arrested.

- (e) Any person under prosecution for the offense of driving a vehicle or while in actual physical control of a vehicle while under the influence of alcohol shall not use refusal to take a blood or breath test or tests as a defense to the charge of being under the influence of alcohol while driving or in actual physical control of a vehicle. The fact that a person has refused to submit to a test or tests of his or her breath or blood shall be admissible in aiding the finder of fact in determining whether or not the person was in fact under the influence of alcohol or drugs or both while driving or in actual physical control.

10.14.16      Driving while license invalidated

It is unlawful for any person to drive a motor vehicle on the Nisqually Indian Reservation when his or her privilege to drive is suspended or revoked. A person violating this subsection shall be guilty of a Class C offense.

HISTORICAL AND STATUTORY NOTES

This subsection added by Tribal Council Resolution 83-2008, dated September 3, 2008.

10.15 MISCELLANEOUS

10.15.1      Severability

If any provision of this ordinance or the application of it to any person or circumstance is held invalid, this ordinance shall be given effect without the invalid provision or application and, to this end, the provisions, chapters, sections and subsections herein are declared to be severable.

10.15.2      Repeal of prior acts

All provisions of any tribal ordinance, resolution or regulation previously enacted or adopted by the Tribe which are inconsistent with this ordinance are hereby repealed.

10.15.3      Effective date

This ordinance shall become effective on the 6<sup>th</sup> day of May, 1992.

TITLE 10  
CRIMES AND TRAFFIC

CHAPTER IV – CIVIL TRAFFIC

10.16      CIVIL TRAFFIC INFRACTIONS – GENERALLY

#### 10.16.1      Purpose

The Nisqually Indian Tribe (“Tribe”) adopts this Chapter to promote the welfare and safety of all persons who use the roadways lying within the jurisdiction of the Nisqually Tribe and to provide for fair and efficient disposition of civil traffic infractions.

#### HISTORICAL AND STATUTORY NOTES

The term “subchapter” changed to “chapter” throughout this Title as part of the 2009 reformatting. This Chapter enacted by Tribal Council Resolution 3-1992.

#### 10.16.2      Jurisdiction

The Nisqually Tribal Court is vested with the power to hear all matters under this Title. The Tribe intends this Title to apply to all persons who engage in conduct regulated by this Title within the territorial jurisdiction of the Tribe. The operation of motor vehicles; travel by drivers, passengers, pedestrians, bicyclists and users of off-road vehicles; vehicle safety equipment; and accident reporting, are all activities which directly affect the safety, health and welfare of the Tribe.

#### 10.16.3      Means of Exercising Jurisdiction

In exercising jurisdiction over civil traffic infractions, if a process is not specified under this Title, the Tribal Court may adopt any suitable process consistent with the purpose of this Title and in harmony with the spirit of Nisqually Tribal law.

#### 10.16.4      Explanation of Privilege

The operation of a vehicle within the territorial jurisdiction of the Tribe is a privilege which may be granted, denied, suspended or revoked by the Tribe.

#### 10.16.5      Officers to Enforce Traffic Codes

All enforcement officers commissioned by the Tribe shall have the authority to enforce the traffic codes of the Tribe. Any enforcement officer shall, upon request, produce evidence of his or her Commission.

#### 10.16.6      Effect of Invalidity

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

10.17            DEFINITIONS

10.17.1        Definitions – Generally

Words in this Chapter shall have the meaning given to them in this Section unless the context clearly indicates another meaning. If the meaning of a word is not clear, the Court shall construe the meaning of the word in harmony with the purpose of this Chapter.

- (a)        “Authorized Emergency Vehicle” means any vehicle used by a fire department, law enforcement department, sheriff’s office, Washington State Patrol, or ambulance service.
- (b)        “Crest of a Grade” means the highest point on an ascending roadway.
- (c)        “Driver or Operator” means any person who is the operator of a vehicle or is in actual physical control of a vehicle.
- (d)        “Driveway” means a way or passage used for travel of vehicles by persons possessing the right to occupy the place or passage but not by others.
- (e)        “Enforcement Officer” means every person authorized by the Nisqually Tribe to serve as a Nisqually Officer.
- (f)        “Laned Road” means a roadway which is divided into clearly marked lanes for vehicular travel.
- (g)        “Motorcycle” means every motor vehicle having a seat for the use of the rider and designed to travel on not more than three wheels in contact with the ground, excluding mopeds and farm vehicles.
- (h)        “Motor vehicle” shall mean every vehicle which is self-propelled but not operated upon rails.
- (i)        “Off-road vehicle” means any motorized vehicle when used for recreational travel on trails or cross-country travel on land, snow, ice, marsh, swampland, or other natural terrain.
- (j)        “Owner” means a person who has lawful right of possession of a vehicle, not merely permission to use the vehicle.
- (k)        “Park or Parking” means to stop and keep standing a vehicle for a time other than for the purpose of temporarily loading or unloading.
- (l)        “Revoke” means invalidation of a person’s privilege to drive for a period of at least one year until reissue.

- (m) “Right of Way” shall mean the privilege of the immediate use of a roadway.
- (n) “Roadway” means a way or passage designed or ordinarily used for vehicular travel owned or maintained by the Tribe, a county, the State of Washington, or the United States.
- (o) “Stand or Standing” means the halting of a vehicle other than temporarily to load or unload.
- (p) “Stop” means to halt a vehicle even momentarily except when directed to do so by a traffic sign, direction of an enforcement officer, or to avoid conflict with other traffic.
- (q) “Suspend” means invalidation of a person’s privilege to drive for less than one year until reinstatement.
- (r) “Traffic” shall mean pedestrians, ridden or herded animals, and vehicular conveyances, either single or together, while using a roadway for purposes of travel.
- (s) “Travel Court” and “Court” mean the Nisqually Court of Justice established under Title 24, Subchapter I of the Laws of the Nisqually Tribe of the Nisqually Reservation, entitled “Nisqually Tribal Court Powers and Procedures.”
- (t) “Vehicle” shall mean every mechanical device capable of being used for transportation or driven by a person upon a roadway, except vehicles moved by human or animal power.
- (u) “Vehicle Right of Way” means the right of one vehicle to proceed in a manner in preference to another vehicle.

10.18            CIVIL TRAFFIC INFRACTION PROCEDURE

10.18.1        Notice of Infraction – Issuance by Enforcement Officer

An enforcement officer has the authority to issue a notice of civil traffic infraction:

- (a) When it occurs in the enforcement officer’s presence;
- (b) When an enforcement officer investigating the scene of an accident has reasonable cause to believe a civil traffic infraction has been committed; or
- (c) When an enforcement officer discovers an unattended vehicle parked, stopped, or standing contrary to this Chapter. The office shall affix a notice of civil traffic infraction in plain view on the vehicle.

10.18.2      Notice of Infraction – Issuance by the Court

The Court may issue a notice of civil traffic infraction when it receives a written statement of an enforcement officer and the Court finds that there is reasonable cause to believe that an infraction has been committed. Such notice shall be sent by regular mail, by the Court Clerk, to the person's last known mailing address.

10.18.3      Notice of Infraction – Form

A notice of civil traffic infraction shall be on a form authorized by the Nisqually Business Committee.

10.18.4      Notice of Infraction – Time of Initial Hearing

The notice of civil infraction issued by the Court or an enforcement officer shall set a time for an initial hearing to be held no sooner than seven (7) and not more than sixty (60) calendar days from the date the notice of hearing is served.

10.18.5      Notice of Infraction – Three Options for Response

A person shall respond to a notice of civil traffic infraction in any one of the following ways:

- (a)      Pay the fine. The fine shall be paid to the Nisqually Tribal Court on or before the day of the initial hearing. The Court shall then enter a judgment that the person committed the civil traffic infraction. If the infraction requires a mandatory appearance under section 10.22 the person cannot pay the fine in lieu of appearing before the Court.
- (b)      Request a hearing to explain the circumstances (without contesting that he or she committed the violation) surrounding the occurrence of the traffic infraction which might arguably lessen the amount of the fine; or
- (c)      Request a hearing to contest the determination that a traffic infraction occurred.

The person must appear at the initial hearing to tell the Court which of these three options he or she chooses. Unless the infraction requires a mandatory appearance as indicated in section 10.22, the person may pay the fine before the hearing in lieu of making an appearance.

10.18.6      Notice of Infraction – Failure to Respond – Hearing

If a person fails to appear and respond as required in subsection 10.18.05 the Court shall enter an order finding that the person committed the traffic infraction shall assess the appropriate fine and may notify the Washington State Department of Licensing to prevent renewal of the person's driver's license until all fines are paid. Failure to appear and respond is a criminal offense under

the Nisqually Code of Offenses. Such failure by any person not under the criminal jurisdiction of the Tribe shall result in exclusion from the Reservation under the Tribe's exclusion laws.

10.18.7 Hearings – Scheduling by the Court

When a person requests a hearing to explain the circumstances or to contest the infraction, the Court shall schedule a hearing to take place no less than seven (7) days and not more than ninety (90) days from the date of the initial hearing. The Court shall give the person oral notice of the date and time of the hearing to explain the circumstances or hearing to contest the infraction, at the initial hearing. The Court shall also cause written notice of hearing to be mailed to the person requesting the hearing.

10.18.8 Hearing to Contest the Determination that an Infraction was Committed

The following rules apply to hearings held to contest the determination that a civil traffic infraction has occurred:

- (a) The proceeding shall be heard by the Court without a jury;
- (b) The Tribe and the person requesting the hearing may both be represented by counsel;
- (c) The Tribe and the person requesting the hearing may have witnesses subpoenaed;
- (d) The burden of proof is on the Tribe to establish the commission of the infraction by a preponderance of the evidence;
- (e) The person requesting the hearing has the right to present evidence and examine witnesses;
- (f) After consideration of the evidence and argument, the Court shall determine whether the infraction was committed. Where it has not been established by a preponderance of the evidence that an infraction has been committed, the Court shall enter an order dismissing the action. Where it has been established that an infraction has been committed, the Court shall enter an order accordingly; and
- (g) Any appeal of a final order shall be governed by the Nisqually Code.

10.18.9 Hearing to Explain Circumstances Surrounding the Infraction

A hearing held for the purpose of allowing a person to explain the circumstances surrounding the commission of the infraction which might arguably lessen the amount of the fine shall be an informal proceeding to which the following rules apply:

- (a) The person requesting the hearing may not contest the determination that the traffic infraction occurred;
- (b) The Tribe and the person requesting the hearing may both be represented by counsel;
- (c) The Tribe and the person requesting the hearing may not compel witnesses to attend;
- (d) After the Court has heard the explanation of the circumstances, the Court shall determine whether the explanation of events justifies reducing the amount of the fine. The Court shall enter an appropriate order which may include ordering payment of the fine, suspending part, or all, of the fine, or ordering payments over time. The Court has continuing jurisdiction and authority to supervise the order; and
- (e) There shall be no right to appeal the Court's order.

10.18.10      Order of Court

All orders entered by the Court under this Chapter are civil in nature. The Court may, in its discretion, waive, reduce, or suspend the fine. The Court may also order suspension or revocation of the driver's privilege to operate a vehicle within the jurisdiction of the Tribe, as provided under this Chapter.

10.18.11      Suspension

The Court may order a driver's privilege to drive within the jurisdiction of the Tribe be suspended as part of any penalty ordered under this Chapter. This suspension shall not be for more than one (1) year, and may be conditioned on the performance or nonperformance of certain activities, a clean driving record, alcohol evaluation and treatment and/or the payment of fines, in the discretion of the judge; PROVIDED, that if the penalty ordered is based on a driver's failure to respond to a Notice of Infraction, the Court may revoke a driver's privilege to drive for more than one (1) year, but not to exceed three (3) years.

10.18.12      Limited Use License

When a driver's privilege to drive is suspended or revoked under this Chapter, the judge may, in his or her discretion, provide for a limited use license for that driver. This license may be limited to driving to and from work, to driving at certain times of the day only, or other restrictions as specified by the Court.

10.19            VEHICLE SAFETY EQUIPMENT



10.19.1      Vehicle Safety Equipment – Generally

It is a civil traffic infraction for any person to fail to comply with any provision set forth in this section.

10.19.2      Required Safety Equipment

No person shall drive any vehicle on a roadway which does not have the following safety equipment in proper condition and adjustment:

- (a)      Bumpers. Every motor vehicle which was originally equipped with bumpers shall maintain them in good condition and shall not remove them except temporarily for repairs.
- (b)      Head Lights. Every motor vehicle shall be equipped with at least two head lights in proper working condition and alignment, at least one on each side of the front of the vehicle.
- (c)      Horns. Every motor vehicle shall be equipped with a horn in good working order.
- (d)      Muffler. Every motor vehicle shall be equipped with a muffler in good working order to prevent excessive or unusual noise.
- (e)      Parking Brakes. Every motor vehicle shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated.
- (f)      Reflectors. Every motor vehicle shall carry on the rear at least two red reflectors. Every reflector shall be of such size and so mounted as to be clearly visible at night within six hundred feet, when directly in front of lawful upper beams of head lamps.
- (g)      Service Brakes. Every motor vehicle shall be equipped with service brakes maintained in good working order and adequate to control the movement of and to stop and hold such vehicle on any grade incident to its operation.
- (h)      Stop Lamps. Every motor vehicle shall be equipped with at least two stop lamps on the rear of the vehicle which shall clearly display a red or amber light and which shall be visible upon application of the service brakes.
- (i)      Tail Lights. Every motor vehicle shall be equipped with at least two tail lights mounted on the rear which shall emit a red light plainly visible from a distance of one thousand feet to the rear of the vehicle.
- (j)      Windshield. Every motor vehicle shall be equipped with a front windshield in such condition as to permit the driver a clear view.

- (k) Windshield Wipers. Every motor vehicle shall be equipped with windshield wipers, maintained in good working order.
- (l) Mirrors. Every motor vehicle shall be equipped with a mirror mounted on the left side of the vehicle and so located to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of such vehicle.

Every motor vehicle shall be equipped with an additional mirror mounted either inside the vehicle approximately in the center or outside the vehicle on the right side and so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of such vehicle.

All mirrors required by this subsection shall be maintained in good condition.

#### 10.19.3 Vehicles to be Equipped with Tires – Safe Condition Defined

Every motor vehicle shall be equipped with tires in safe operating condition. A tire shall be considered to be unsafe if it has:

- (a) Any ply or cord exposed either to the naked eye or when cuts or abrasions on the tire are probed; or
- (b) Any bump, bulge or knot, affecting the tire structure; or
- (c) Any break repaired with a boot; or
- (d) A tread depth of less than  $\frac{2}{32}$  of an inch measured in two major tread grooves at three locations equally spaced around the tire; or
- (e) Any condition that reasonably demonstrates that the tire is unsafe; or
- (f) Markings on the tire specifying that the tire is not intended for use on a roadway, such as “for racing purposes only”; or
- (g) Tread wear indicators which contact the roadway in any two major tread grooves at three locations equally spaced around the tire.

#### 10.19.4 Multiple-Beam Head Lights

The head lights of all motor vehicles shall be so arranged that the driver may select at will between high and low beams of lights. The high beams shall be so aimed and of such intensity to real persons and vehicles at a distance of 150 feet ahead. On a straight level roadway none of

the high intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

#### 10.19.5 Use of Multiple-Beam Head Lights

Whenever a motor vehicle is being operated on a roadway during the time specified in subsection 10.19.07, the driver shall use a beam sufficient to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to these requirements.

- (a) Whenever a driver of a motor vehicle approaches an oncoming vehicle within 500 feet, such driver shall use low beams.
- (b) Whenever a driver of a motor vehicle approaches another vehicle from the rear within 300 feet, such driver shall use low beams.

#### 10.19.6 Spot Lamps

Whenever a motor vehicle is equipped with spot lamps or other auxiliary lamps, such lamps shall not be of such intensity and adjustment as to strike the eyes of an approaching driver.

#### 10.19.7 Times when Head Lights, Tail Lights are Required to be On

No person shall drive or move any vehicle on a roadway without head lights and tail lights turned on, from a half hour after sunset to a half hour before sunrise and anytime weather conditions diminish a driver's clear view.

#### 10.19.8 Wheel Projections

No vehicle shall be equipped with wheel nuts, hub caps, or wheel disks which project outside the body of the vehicle in a manner constituting a hazard to pedestrians and cyclists.

#### 10.19.9 Body and Load Projections

The body, fenders, and bumpers of all vehicles shall be maintained without protrusion which could be hazardous to pedestrians and cyclists. No person shall operate or move any vehicle on a roadway with any load which extends beyond the line of the fenders on the left side of the vehicle nor extending more than six inches beyond the line of the fenders on the right side thereof.

#### 10.19.10 Flags on Projecting Load

No person shall drive or move any vehicle on a roadway when the vehicle has a load which extends beyond its sides or which extends to the rear four or more feet beyond the body or bed of

the vehicle, without red signal flags, at least 12 inches square, marking the extremities. During hours of darkness such extremities shall be marked with a red light plainly visible from a distance of at least 500 feet from the sides and rear. This light shall be in addition to the red tail lights required on every vehicle.

10.19.11      Safety Belts – Use Required

- (a) Every person sixteen years of age or older operating or riding in a motor vehicle shall wear a safety belt assembly in a properly adjusted and securely fastened manner.
- (b) No person may operate a motor vehicle unless all passengers under the age of sixteen years are either wearing a safety belt assembly or are securely fastened into an approved child restraint device.

10.19.12      Child Passenger – Restraints Required

- (a) The parent or legal guardian of a child under the age of three years shall have the child properly secured in a federally-approved child safety seat when the child is a passenger in a vehicle owned and operated by the parent or legal guardian.
- (b) The parent or legal guardian of a child age three years or four years shall have the child properly secured in a federally approved child safety seat or seat belt when the child is a passenger in a vehicle owned and operated by the parent or legal guardian.

10.19.13      Motorcycle Safety Equipment

No person shall drive or move any motorcycle which does not have the following safety equipment in proper condition and adjustment:

- (a) Brakes. Every motorcycle shall be equipped with service brakes in safe, working order and which operate on the front and rear wheels.
- (b) Head Lights. Every motorcycle shall be equipped with at least one head light in good working order.
- (c) Reflector. Every motorcycle shall carry on the rear, either as part of the tail light or separately, at least one red reflector.
- (d) Tail Light. Every motorcycle shall be equipped with at least one tail light in good working order.
- (e) Stop Lamps. Every motorcycle shall be equipped with at least one stop lamp.

10.19.14      Motorcycles – Head Light and Tail Light to be On

Every motorcycle shall have its head light and tail light on whenever such vehicle is in motion on any roadway.

10.19.15      Motorcycles – Exhaust System

No person shall modify the exhaust system of a motorcycle in a manner, or fail to maintain the exhaust system, so as to amplify or increase the noise above the level emitted by the muffler originally installed on the motorcycle.

10.19.16      Motorcycles – Eye Protection

No person under 18 years of age shall drive or ride as a passenger on any motorcycle on any roadway without wearing glasses or goggles or a face shield in a manner which actually protects the eyes.

10.19.17      Motorcycles – Helmet Required

No person under 18 years of age shall drive or ride as a passenger on any motorcycle on any roadway without wearing a protective helmet which meets either current Snell safety standards or U.S. Department of Transportation standards.

10.19.18      Moving Vehicle in Unsafe Condition

It is a civil traffic infraction to drive or move any vehicle which is in such unsafe condition as to endanger any person or property.

10.19.19      Bicycle Equipment

Every bicycle when in use during the hours of darkness as defined under subsection 10.19.07 shall be equipped with a lamp or reflector on the front which shall emit or reflect white light and with a red reflector on the rear.

10.20      RULES OF THE ROAD

10.20.1      Driver's License

- (a) Generally – It shall be a civil traffic infraction for any person to fail to comply with any of the provisions set forth in this subsection.
- (b) Drivers to be Licensed – No person shall operate a vehicle on the roadways within the jurisdiction of the Tribe unless he or she has obtained a valid operator's license issued by

any jurisdiction recognized by the Tribe.

- (c) Operator's License on Person – No person shall operate a vehicle on the roadways within the jurisdiction of the Tribe unless he or she has a valid operator's license issued to him or her by any jurisdiction recognized by the Tribe, on his or her person or within the vehicle operated.
- (d) Driving While License is Suspended, Revoked – No person shall operate a vehicle within the jurisdiction of the Tribe when the person's operator's license has been suspended or revoked by any jurisdiction, except in compliance with the terms of a valid occupational license or limited use license under subsection 10.18.12 of this Title.
- (e) Learner's Permit – No person under the age of sixteen years of age shall operate a vehicle within the Tribe's jurisdiction except in full compliance with all requirements of a valid state or Tribal learner's permit.
- (f) Motorcycle Endorsement Required – No person shall drive a motorcycle or a motor-driven cycle, except a moped, unless such person has a valid driver's license specially endorsed by a jurisdiction recognized by the Tribe, to enable the holder to drive such vehicles, nor may a person drive a motorcycle of a larger engine displacement than that authorized by the special endorsement.

#### 10.20.2      Emergency Vehicles

- (a) Yield to Emergency Vehicles – The driver of every vehicle shall yield the right of way by pulling over to the far right of the road and stopping upon immediate approach of an authorized emergency or law enforcement vehicle making lawful use of sirens and visual signals.
- (b) Following Fire Vehicle Prohibited – The driver of any vehicle other than one of official business shall not follow any official fire vehicle traveling in response to a fire alarm, closer than five hundred feet, or stop any vehicle closer than five hundred feet from an official fire vehicle.
- (c) Crossing Fire Hose – No person shall drive or move a vehicle over any unprotected fire hose without the consent of the fire vehicle operator.
- (d) Emergency Vehicles Exempted from Speed Limits – Due Care Required – The speed designated in this Chapter shall not apply to authorized emergency vehicles when operated in emergencies. Nothing in this Chapter shall relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using a roadway.

#### 10.20.3      Motorcycles

- (a) Motorcycle – Operation on Laned Roads
  - (i) All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in a way that deprives a motorcycle of the full use of a lane.
  - (ii) The operator of a motorcycle shall not overtake and pass in the same lane as is occupied by the vehicle being overtaken.
  - (iii) The operator of a motorcycle shall not overtake and pass a vehicle while any oncoming vehicles are adjacent to the vehicle being overtaken.
  - (iv) Motorcycles shall not be operated more than two abreast in a lane.
  - (v) Subsections (b) and (c) shall not apply to enforcement officers in the performance of their official duties.
- (b) Motorcycles – Riding on the Permanent Seat Only – A person operating a motorcycle shall ride only upon the permanent and regular seat attached to the motorcycle and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person. A passenger shall ride only upon a seat designed for that purpose.
- (c) Motorcycles – Footpegs – A motorcycle must be equipped with foot pegs for each person the motorcycle is designed to carry.
- (d) Motorcycles – Both Feet Not to be On the Same Side – No person shall ride a motorcycle in a position where both feet are placed on the same side of the motorcycle.
- (e) Motorcycles – Clinging to Other Vehicles – No person riding upon a motorcycle shall attach him or her self or the motorcycle to any other vehicle on a roadway.

10.20.4      Off-Road Use of Vehicles

- (a) Vehicles Driven Off Existing Roadways
  - (i) The operator of any “off-road vehicle”, “all terrain vehicle”, “three wheeler” and any other motor vehicle must comply with all applicable provisions of this Chapter when such vehicles are operated on the roadways within the jurisdiction of the Tribe. Such applicable Chapter provisions include but are not limited to licensing, safety equipment, and rules of the road.
  - (ii) Permission of the landowner shall be obtained by the operator prior to operation of any motor vehicle, including but not limited to “off-road vehicles”, “all terrain vehicles” and “three wheelers”, on fee land and allotted lands held in trust by the United States for an individual or subject to restrictions against alienation.
  - (iii) The operator of any motor vehicle on or off the roadway shall be responsible for all damage to person and property, including damage to terrain caused by operation of the vehicle.

ANNOTATIONS

Title 16 of the Nisqually Tribal Code provides additional rules and regulations applicable to off-road vehicles.

10.20.5      Pedestrians

- (a) Pedestrians – Drivers to Exercise Care – Every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall exercise proper precaution upon seeing any child or incapacitated person upon a roadway.
- (b) Pedestrians – Under the Influence of Alcohol or Drugs – A pedestrian who is under the influence of alcohol or any drug to a degree which renders himself a hazard shall remain safely off the main traveled portion of the roadway.
- (c) Pedestrians – To Remain off the Road – Every pedestrian shall remain safely off the main traveled portion of the roadway (on the shoulder) and shall travel only on the left-hand side of the roadway facing traffic.

10.20.6      Property Damage – Materials on the Road

- (a) Throwing Glass or Other Materials on Road
  - (i) No person shall throw or deposit or allow to be deposited upon any roadway any glass, nails, tacks, wire, cans, manure, fireworks, burning materials, bottles or any other substance likely to injure any person or animal or vehicle upon or near the edge of such roadway.
  - (ii) Any person removing a wrecked or damaged vehicle from a roadway shall remove any glass or other injurious substance dropped from the vehicle onto the roadway.
- (b) Permitting Escape of Load and Other Materials – Any person operating a vehicle from which any glass, manure or other objects have fallen or escaped which could endanger travel upon the roadway shall immediately remove all such glass or objects from the roadway.
- (c) Interference with Signs and Signals – No person shall deface, injure or remove any of the official traffic signs or signals placed or erected within the jurisdiction of the Tribe.

10.20.7      Speed Limits – Due Care Required

- (a) Speed Limits – No person shall drive a vehicle in excess of the posted speed limits within the jurisdiction of the Tribe or as designated by this Chapter for the particular district or location. The speed limit within the jurisdiction of the Tribe is 15 miles per hour unless otherwise posted or unless otherwise specified in this Chapter.
- (b) Due Care Required – No person shall drive a vehicle or a bicycle upon a roadway in a manner or at a speed greater than is reasonable and prudent, having due regard to the traffic, surface, and width of the roadways and the hazards at intersections and any other conditions then existing. Nor shall any person drive in a manner or at a speed which is greater than will permit the driver to exercise proper control of the vehicle or bicycle and to decrease speed or to stop as may be necessary to avoid colliding with any person,



vehicle, or other conveyance on or entering the roadway in compliance with legal requirements and with the duty of drivers and other persons using the roadway to exercise due care.

- (c) Speed Limits – Changes by the Nisqually Business Committee – The Nisqually Business Committee may initiate an engineering and traffic investigation to determine whether the maximum speed limits within the Nisqually Tribe’s jurisdiction are greater or less than is reasonable and safe under the conditions of a particular roadway or section of roadway. The Business Committee may then declare a reasonable and safe maximum speed limit and cause same to be posted.
- (d) Intent – In order to protect a secure, safe living environment for its residents, the Tribe finds it necessary to establish speed limits within its community.
- (e) Roadway Speeds – The following speed limits are established for the corresponding roadways:
  - (i) Muck Creek Drive 15 miles per hour
  - (ii) Nisqually Drive 15 miles per hour
  - (iii) Muk-Sut-Wei Drive 15 miles per hour
  - (iv) She-Nah-Num Drive 15 miles per hour
  - (v) Peter Kalama Drive 25 miles per hour

HISTORIC AL AND STATUTORY NOTES

1. Subsection 10.20.07(d) enacted by Tribal Council Resolution 152-1984.
2. Subsection 10.20.07(d) subsequently amended in 1990 (resolution unknown) and then again in 1992 by Tribal Council Resolution 3-1992.
3. Subsection 10.20.07(e) enacted by Tribal Council Resolution 152-1984 and subsequently amended in 1990.

10.20.8 Vehicle Travel – Rules of the Road

- (a) Drive on the Right Side of the Road – Every vehicle shall be driven on the right half of the roadway except as follows:
  - (i) When overtaking and passing another vehicle proceeding in the same direction;
  - (ii) When a roadway is not sufficiently wide;
  - (iii) When an obstruction exists making it necessary to drive to the left of center, provided that any person so doing shall yield the right of way to oncoming traffic.
- (b) Turning, Stopping, Moving Right or Left – Signals Required – No person shall turn a vehicle or move right or left upon a roadway unless such movement can be made with reasonable safety and unless the proper hand signal or lighted turn signal is given. Whenever the signal is given by means of the hand and arm, the driver shall indicate his intention to turn to the left by extending his hand and arm horizontally from and beyond the left side of the vehicle, his intention to turn to the right by extending his hand and arm upward from and beyond the left side of the vehicle, and his intention to stop or suddenly

decrease speed by extending his hand and arm downward from and beyond the left side of the vehicle. The signal herein required is to be given before turning to the right or the left, whether by means of the hand and arm or by means of an approved mechanical or electrical device.

- (c) Turning at Intersections – The driver of a vehicle intending to turn at an intersection shall do so as follows:
  - (i) Approach for a right turn shall be made in the lane for traffic nearest to the right- hand side of the roadway and the right turn shall be made as closely as practicable to the right- hand curb or edge of the roadway.
  - (ii) Approach for a left turn shall be made in the lane for traffic to the right and nearest to the center line of the roadway and the left turn shall be made by passing to the right of such center line where it enters the intersection, and upon leaving the intersection by passing to the right of the center line of the roadway then entered: provided, that the provisions of this subsection shall not apply to passenger vehicles actually engaged in loading or unloading passengers at an intersection prior to making a left turn.
- (d) Right of Way – Vehicle Turning Left – The driver of a vehicle intending to turn left into an alley, driveway or other roadway shall yield the right of way to any vehicle approaching from the opposite direction.
- (e) Right of Way – Yielding for Road Construction – The driver of a vehicle shall yield the right of way to any authorized vehicle or pedestrian engaged in work upon a roadway.
- (f) Overtaking and Passing – The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction:
  - (i) A driver may overtake and pass another vehicle only while traveling on the left side of the roadway and shall not again drive on the right side of the roadway until safely clear of the overtaken vehicle;
  - (ii) A driver may overtake and pass another vehicle only when the left side of the roadway is clearly visible and free of oncoming traffic for a sufficient distance ahead to avoid interfering with the flow of oncoming traffic;
  - (iii) No vehicle shall be driven on the left side of the roadway when approaching or upon the crest of a grade or a curve in the roadway where the driver's view is obstructed;
  - (iv) No driver shall at any time drive on the left side of the roadway where signs or markings are in place to define a no-passing zone;
  - (v) A driver shall overtake and pass another vehicle in a safe manner.
- (g) Passing School Bus – The driver of a vehicle approaching a school bus from either direction shall stop the vehicle before reaching the school bus when the school bus displays a visual signal to stop. The driver shall not proceed until such visual signal is withdrawn.
- (h) Following Too Closely – The driver of a vehicle shall not follow another vehicle more closely than is reasonable for the speed and travel conditions.

- (i) “U” Turns – The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety, without interfering with other traffic.
- (j) Backing – A driver shall not back a vehicle unless such movement can be made safely and without interfering with the other traffic.
- (k) Traffic Signs, Signals and Markings – The driver of any vehicle and every bicyclist shall obey the instructions of any official traffic sign, signal and marking placed within the jurisdiction of the Nisqually Tribe, unless otherwise directed by an enforcement officer, or flagger, or firefighter.
- (l) Stopping, Standing or Parking on Road – No person shall stop, park or leave standing any vehicle so as to interfere with traffic on the traveled portion of the roadway.
- (m) Stopping, Standing or Parking Prohibited in Certain Places – No person shall stop, park or leave standing any vehicle, except momentarily to pick up or discharge a passenger:
  - (i) In front of any driveway or within five feet of the curb radius thereto;
  - (ii) Within fifteen feet of a fire hydrant;
  - (iii) Within twenty feet of the driveway entrance to a fire station;
  - (iv) On the side of the street opposite the entrance to any fire station; or
  - (v) At any place where official signs or markings prohibit stopping, standing or parking.
- (n) Leaving Children Unattended in Vehicle – No person shall leave children under the age of twelve years unattended in a vehicle.
- (o) Obstructing the Driver’s View – No person shall drive a vehicle when it is so loaded as to obstruct the driver’s view to the front, rear or sides of the vehicle or as to interfere with the driver’s control over the vehicle.
- (p) Tribal Center Regulations, State Route 510, Commercial Site Number Seven – Within the Nisqually Tribal Center complex area, located at 4820 She-Nah-Num Drive S.E. and including the entire parcel of land held in trust for the Nisqually Tribe bordered by State Route #510 and Nisqually Drive S.E. and Muk-Sut-Wei Drive S.E., the following traffic regulations shall apply in addition to the other applicable provisions under this Chapter:
  - (i) No parking shall be allowed on the roadway except in designated areas clearly marked or except temporary parking by authorized delivery vehicles;
  - (ii) No parking or stopping for other than traffic safety reasons shall be allowed in the entrance to the complex or in a manner that blocks or obstructs the entrances either completely or in part; and
  - (iii) The Administrator shall have the authority to designate and post certain areas within the complex for special purpose parking only. No person who does not meet the special designation shall be allowed to park at those locations.
  - (iv) Parking and rerouting of traffic on SR #510 is the responsibility of the Washington State Department of Transportation, District Number Three, Tumwater.
  - (v) The Administrator shall have the authority to designate and post certain areas within

- commercial site number seven for special purpose parking only. No person who does not meet the special designation shall be allowed to park at those locations.
- (vi) The Nisqually Business Committee shall have the final authority to approve or disapprove all special purpose parking designated by the Administrator.

(q) Alcoholic Beverages and Cannabis – Prohibitions –

- (i) No person shall drink any alcoholic beverage or ingest cannabis in a motor vehicle when the vehicle is upon a roadway.
- (ii) No person shall have an open or unsealed receptacle containing an alcoholic beverage or cannabis in his or her possession while in a motor vehicle when the vehicle is upon a roadway.
- (iii) No driver of a motor vehicle which is on a roadway shall keep an open or unsealed receptacle containing an alcoholic beverage or cannabis within the vehicle unless the receptacle is kept in the trunk or other area of the vehicle which is not normally accessible to the occupants.

HISTORICAL AND STATUTORY NOTES

Subsection 10.20.08(b) was amended in 1992 by Tribal Council Resolution 82-1992.

10.20.9 Using a Wireless Communication Device While Driving

- (a) Except as provided in subsections (b) and (c) of this section, a person operating a moving motor vehicle while holding a wireless communications device to his or her ear is guilty of a traffic infraction.
- (b) Subsection (a) of this section does not apply to a person operating:
- (i) An authorized emergency vehicle, or a tow truck responding to a disabled vehicle;
- (ii) A moving motor vehicle using a wireless communications device in hands-free mode;
- (iii) A moving motor vehicle using a hand-held wireless communications device to: Report illegal activity, summon medical or other emergency help, prevent injury to a person or property, or relay information that is time sensitive between a transit or for-hire operator and that operator's dispatcher, in which the device is permanently affixed to the vehicle;
- (iv) A moving motor vehicle while using a hearing aid.
- (c) Subsection (a) of this section does not restrict the operation of an amateur radio station by a person who holds a valid amateur radio operator license issued by the federal communications commission.
- (d) For purposes of this section, "hands-free mode" means the use of a wireless communications device with a speaker, headset, or earpiece.

HISTORICAL AND STATUTORY NOTES

Subsection 10.20.09 was added by Resolution 13-2014, dated February 11, 2014.

10.21            ACCIDENT REPORTS, ABANDONMENTS AND STOLEN VEHICLES

10.21.1        Driver's Duty Upon Damaging Unattended Vehicle or Other Property

The driver of any vehicle which damages any unattended vehicle or other property on or adjacent to a roadway shall:

- (a)     Immediately notify the owner of the unattended vehicle or other property, giving the driver's name and address; or
- (b)     Leave a written notice giving the driver's name and address in a conspicuous place on the unattended vehicle or other property.

Failure of any person to comply with this section shall be a civil traffic infraction.

10.21.2        Driver's Duty in Case of Injury or Death to Person

A driver of any vehicle involved in an accident resulting in the injury or death of any person or damage to any vehicle shall:

- (a)     Immediately stop such vehicle at the scene of the accident;
- (b)     Give his or her name, address, vehicle license number and driver's license number to any person involved in the accident;
- (c)     Render reasonable assistance to any person injured in such accident. Compliance with this requirement shall not be evidence of the liability of any driver for such accident; and
- (d)     Notify Nisqually Tribal Law Enforcement following the accident. Provided, this section shall not apply to any person physically incapable of complying.

10.21.3        Record of Traffic Charges

The Court shall keep or cause to be kept a record of every notice of civil traffic infraction or other legal form of traffic charge deposited with the Court and shall keep a record of every official action the Court takes in relation to the civil traffic infraction or other traffic charge.

10.21.4        Stolen Vehicle Reports

It shall be the duty of the Chief Enforcement Officer of the Tribe to notify the appropriate Washington State authority of all motor vehicles reported to him or her as stolen or recovered.

10.22            FINE SCHEDULE

10.22.1        Fines

The following schedule of fines applies to the civil traffic infractions enumerated in this Chapter. If a “yes” appears under “mandatory appearance”, the person must appear before the Court for a hearing and cannot pay the fine in lieu of that Court appearance. At the discretion of the Court, a fine may be converted to community service hours in accordance with Nisqually Tribal Court policies.

SECTION	INFRACTION	FINE	MANDATORY APPEARANCE
10.19	Vehicle safety equipment. Violation of any provision in the section	\$120.00	
10.20.01(b)	Drivers to be Licensed	\$200.00	Yes, unless proof of valid license is given to the Court Clerk along with payment of the fine on or before the date of the initial hearing.
10.20.01(c)	Operator’s License not on Person	\$120.00	
10.20.01(d)	Driving While License is Suspended, Revoked	\$200.00	yes
10.20.01(e)	Failure to Comply with Learner’s Permit	\$120.00	
10.20.01(f)	Motorcycle Endorsement Required	\$120.00	
10.20.02(a)	Failure to Yield to Emergency Vehicles	\$200.00	yes
10.20.02(b)	Following Fire Vehicle Prohibited	\$200.00	yes
10.20.02(c)	Crossing Fire Hose	\$120.00	
10.20.03(a)	Motorcycles- Operation on Laned Roads	\$120.00	

10.20.03(b)	Motorcycles-Riding on Permanent Seat Only	\$120.00	
10.20.03(c)	Motorcycles-Footpegs	\$120.00	
10.20.03(d)	Motorcycles-Both Feet Not to be On the Same Side	\$120.00	
10.20.03(e)	Motorcycles-Clinging to Other Vehicles	\$120.00	
10.20.04	Off-Road Vehicles	\$120.00	
10.20.05(a)	Pedestrians-Drivers to Exercise Care	\$120.00	
10.20.05(b)	Pedestrians-Under the Influence	\$120.00	
10.20.05(c)	Pedestrians to Remain off Road	\$120.00	
10.20.06(a)	Throwing Glass or Other Materials	\$120.00	
10.20.06(b)	Permitting Escape of Load	\$200.00	
10.20.06(c)	Interference with Signs, Signals	\$200.00	
10.20.07(a)	Exceeding Speed Limit: <u>MPH</u> 1-5 over 6-10 over 11-15 over 16-20 over 21 and over	\$60.00 \$80.00 \$100.00 \$120.00 \$140.00	
10.20.07(b)	Due Care Required	\$120.00	
10.20.08(a)	Drive on the Right Side of Road	\$200.00	
10.20.08(b)	Turning, Stopping, Moving Right or Left-Signals Required	\$120.00	
10.20.08(c)	Turning at Intersections	\$120.00	
10.20.08(d)	Right of Way - Vehicle Turning Left	\$120.00	
10.20.08(e)	Right of Way-Yielding for Road Construction	\$120.00	
10.20.08(f)	Overtaking and Passing	\$120.00	

10.20.08(g)	Passing School Bus	\$200.00	yes
10.20.08(h)	Following Too Closely	\$120.00	
10.20.08(i)	“U” Turns	\$120.00	
10.20.08(j)	Backing	\$120.00	
10.20.08(k)	Traffic Signs, Signals and Markings	\$120.00	
10.20.08(l)	Stopping, Standing or Parking on Road	\$120.00	
10.20.08(m)	Stopping, Standing or Parking in Certain Places	\$120.00	
10.20.08(n)	Leaving Children Unattended in Vehicle	\$200.00	yes
10.20.08(o)	Obstructing the Driver’s View	\$120.00	
10.20.08(p)	Failure to Obey, Tribal Center Regulations, State Route Number 510, Commercial Site Number Seven	\$120.00	
10.20.08(q)	Alcoholic Beverages-Prohibitions	\$120.00	yes
10.20.09	Using a Wireless Communications Device while Driving	\$120.00	
10.21.01	Failure to Report Property Damage	\$120.00	
10.21.02	Failure to Report Injury or Death	\$300.00	yes
Title 16	Violations of Nisqually Tribal Code 16 ( not otherwise prescribed)	\$120.00	

HISTORICAL AND STATUTORY NOTES

1. This section amended by Resolution 11-2014, dated February 11, 2014.
2. This section amended by Resolution 60-2012, dated June 5, 2012.
3. This section amended by Resolution 52-2010, dated May 18, 2010.