

TITLE 46
TRIBAL LANDS

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TITLE 46 – TRIBAL LANDS

CHAPTER I – EXCLUSION FROM THE NISQUALLY RESERVATION

46.01 SOVEREIGN POWER TO EXCLUDE

46.01.01 Persons Subject to Exclusion

Pursuant to the sovereign power of the Nisqually Indian Community to exclude individuals from the Nisqually Indian Reservation, any person, other than enrolled Tribal members, and owners or possessors of real property on the Nisqually Indian Reservation, may be permanently excluded for any conduct, which if such conduct has been committed by an Indian, would have been a violation of this Code.

HISTORICAL AND STATUTORY NOTES

This section amended in 1991. Originally created by Ordinance 1-1979.

46.01.02 No Assertion of Criminal Jurisdiction over Non-Indians

In asserting its sovereign right to exclude persons from the Reservation, the Nisqually Indian Community is not asserting criminal jurisdiction over non-Indians for acts committed on the Nisqually Indian Reservation.

HISTORICAL AND STATUTORY NOTES

This section amended in 1991. Originally created by Ordinance 1-1979.

46.01.03 Exclusion Procedure

- (a) Initiation of exclusion proceedings shall be the issuance by a Tribal Police Officer, or other person appointed by the Tribal Court, of notice to the person sought to be excluded, of a time and place for a hearing before the Tribal Court.
- (b) At the time and place listed in the notice, the individual sought to be excluded must appear and show cause why he or she should not be permanently excluded from the Nisqually Indian Reservation.
- (c) Notice shall be personally delivered, unless under the circumstances of the particular case, the Tribal Court allows notice by publication in a newspaper of general circulation in Thurston County.
- (d) Nisqually Tribal Police are authorized to issue a notice of temporary exclusion to any individual subject to this title wearing or displaying gang insignia, colors, signs, symbols or otherwise determined to be affiliated with a criminal street gang. In no circumstance shall a temporary exclusion extend beyond sixty days

without review of the Nisqually Tribal Court pursuant to this Title.

HISTORICAL AND STATUTORY NOTES

1. This section amended in 1991. Originally created by Ordinance 1-1979
2. Subsection (d) of this section added by Resolution 46-2009 dated June 24, 2009.

46.01.04 Determination of Exclusion

At an exclusion hearing, the Tribal Court may order an individual excluded permanently, partially excluded with conditions, or make a finding of non-exclusion.

HISTORICAL AND STATUTORY NOTES

This section amended in 1991. Originally created by Ordinance 1-1979.

46.01.05 Enforcement

If the Tribal Court determines that an individual is permanently excluded, or partially excluded with conditions, Tribal Police Officers, in accordance with the Court's determination, have the authority to physically remove said person to the exterior boundaries of the Nisqually Reservation if said excluded person again enters onto the Nisqually Indian Reservation.

HISTORICAL AND STATUTORY NOTES

This section amended in 1991. Originally created by Ordinance 1-1979.

46.02 TEMPORARY EXCLUSION

46.02.01 Persons Subject to Exclusion

All persons subject to exclusion under Section 46.01.01 of this Title, shall be subject to temporary exclusion, provided that such person or persons have not previously been permanently excluded under the provisions of Chapter 46.01, or have received three temporary exclusions.

HISTORICAL AND STATUTORY NOTES

This section added by Tribal Council Resolution 28 - 2013.

46.02.02 Temporary Exclusion Procedures

- (a) Any member of the Nisqually Indian Tribe, or a Nisqually Tribal Police Officer, may request that a written Petition for Temporary Exclusion be placed on the agenda of a regularly scheduled meeting of the Nisqually Tribal Council.
- (b) The written Petition for Temporary Exclusion shall contain the name and address of the person or persons for whom exclusion is sought, as well as a short statement of facts in support of the Petition for Temporary Exclusion.

- (c) Tribal Council staff shall notify the person or persons who are the subject of the petition of their right to respond to the Petition for Temporary Exclusion, either in writing, or in person by requesting to be heard at a regularly scheduled Tribal Council meeting.
- (d) The Tribal Council shall take the matter under advisement and, within 30 days of notice to the person or persons for whom temporary exclusion is sought, may issue a temporary exclusion.
- (e) The time period for persons subject to temporary exclusion shall be as follows:
 - (i) First temporary exclusion - thirty days;
 - (ii) Second temporary exclusion – ninety days;
 - (iii) Third temporary exclusion – one year.
- (f) No person who has received three temporary exclusions shall be eligible for further temporary exclusion, provided that the excluded individual was afforded all rights under subsection (c) of this section.
- (g) The decision of the Tribal Council in matters of temporary exclusion is not subject to appeal.

HISTORICAL AND STATUTORY NOTES

This section added by Tribal Council Resolution 28 - 2013.

46.02.03 Enforcement

If the Tribal Council determines that an individual is temporarily excluded, Tribal Police officers, in accordance with the Council’s determination, have the authority to physically remove said person to the exterior boundaries of the Nisqually Indian Reservation for the period of temporary exclusion.

HISTORICAL AND STATUTORY NOTES

This section added by Tribal Council Resolution 28 - 2013.