



REVISED LAW AND ORDER CODE OF THE STILLAGUAMISH TRIBE

CHAPTER 1.05 – GENERAL PROVISIONS

1.05.005 - Titles and Effective Date

This ordinance shall be known as the Revised Law and Order Code of the Stillaguamish Tribe and shall take effect upon its adoption by the Board of Directors as authorized by the Constitution of the Stillaguamish Tribe of Indians and Tribal Resolution 05/095.

1.05.010 - Authority

This code is enacted under the inherent power and authority of the Stillaguamish Tribe of Indians as a sovereign nation and in accordance with Article VII of the Tribe's June 18, 1986 Constitution.

1.05.015 - Non-Waiver of Sovereign Immunity

Nothing in this code shall be deemed to constitute a waiver by the Stillaguamish Tribe of Indians of its sovereignty, rights, powers, or privileges.

1.05.020 - Severability

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

1.05.025 - Amendments, Repeal, Modifications

The Stillaguamish Tribal Council reserves the right to amend, repeal, or modify this code or any part thereof at any time.

CHAPTER 2.05 - TRIBAL COURT

2.05.005 - Tribal Court - Judicial Power

The Judicial power of the Stillaguamish Tribe of Indians shall be vested in the Stillaguamish Tribal Court. When jurisdiction is vested in that court all the means necessary to exercise that jurisdiction is also delegated by authority of Article VII Section 1(a) of the Tribal Constitution. In the exercise of that jurisdiction, if the course of the proceeding is not specified in this ordinance, any suitable process may be adopted which appears most in keeping with the spirit of Stillaguamish tribal law.

2.05.010 - Tribal Court - Jurisdiction

The territorial jurisdiction of the Stillaguamish Tribal Court shall extend to all territory in which the Stillaguamish Tribe of Indians has a beneficial interest; including, but not limited to, all usual and accustomed hunting and fishing grounds and stations, any other lands or areas which may be acquired for, or by, and or held in the name of the Stillaguamish Tribe of Indians or any allotted lands held by Stillaguamish Indians.

The subject matter jurisdiction of the Stillaguamish Tribal Court shall extend to all matters of law and equity whether civil or criminal in nature, arising under the laws of the Stillaguamish Tribe of Indians.

Criminal jurisdiction of the Stillaguamish Tribal Court shall extend to any persons identified as enrolled members of federally recognized Indian tribes and all other persons natural and legal of any kind to the fullest extent permissible under applicable law.

Civil jurisdiction of the Stillaguamish Tribe of Indians shall extend to all persons to the fullest extent possible under applicable law.

2.05.015 - Tribal Court - Composition

The Stillaguamish Tribal Court shall be composed of two divisions: the Tribal Court, which shall exercise the court's original jurisdiction; and the Court of Appeals, which shall hear and decide appeals of final judgment of the Tribal Court.

2.05.020 - Tribal Court - Court of Record

The Court shall be a court of record, and shall keep records of all proceedings, including the titles of cases, the names of parties and counsel, material rulings, and such other matters sufficient to provide a thorough review of proceedings.

2.05.025 - Tribal Court - Copies of Laws

The Court shall be provided with current copies of Tribal Code, all ordinances enacted by the Tribal Council and such resolutions and regulations as may be applicable to the conduct of the Court's business.

2.05.030 - Tribal Court - Appointment and Removal of Judges

The Court shall consist of one Chief Judge, three Appellate Judges and such Associate Judges and Judicial Officers as appointed by the Tribal Board of Directors.

To be eligible to serve as Judge, a person must: (1) be over the age of 21, (2) within a period of five years not have been convicted of a felony or any offense involving moral turpitude or dishonesty, and (3) have a law background and experience in Indian Law.

Each Judge shall hold office for a period of five years, unless sooner removed for cause and shall be eligible for reappointment. In the event of a vacancy the Tribal Board of Directors shall appoint a judge to serve the un-expired term.

A Judge may be suspended or removed only upon a showing of good cause and only by a four-fifths vote of the Tribal Board of Directors. Prior to such suspension or removal, the judge shall be presented with a written statement of allegations constituting good cause and shall be notified ten days in advance of a required hearing on the charges. The judge shall be fully informed of the nature of the charges, shall be confronted with the witnesses against him and shall be entitled to be represented by counsel at his own expense. Following the hearing, the Tribal Board of Directors shall prepare written findings of fact and their decision shall be by roll call vote.

No judge shall be qualified to act in any cause in which he or she has a direct interest.

The Tribe may opt to utilize the services of an Inter-Tribal Court System, as provided for in the Tribal Constitution, Article XI, "Judicial Authority," to provide judicial services in lieu of an elected judge.

If the Tribe chooses to utilize an Inter-Tribal Court judge, the day to day operations of the court system shall be the responsibility of such administrative personnel as appointed by the Tribal Council (Board of Directors).

2.05.035 - Tribal Court - Duties and Powers of a Judge

Each Judge of the Court shall have the following powers, including, but not limited to:

- 1) Hear cases;
- 2) Issue subpoenas compelling the attendance of witnesses and/or necessary parties at proceedings and to issue penalties for any witness/party failing to comply with such subpoenas;
- 3) Issue warrants to apprehend and search warrants pursuant to the Rules of Criminal Procedure;
- 4) determine the construction of any Code provision, including necessary elements of any offense, and applicable defense;
- 5) interpret any ambiguous Code provisions and issue rulings clarifying such provisions;
- 6) Determine the amount of bail to be posted; and
- 7) Issue any order or writ necessary and proper to accomplish substantial justice and further the proper authority of the Court.

Notwithstanding the above provisions, when circumstances indicate an immediate need, the Chief Judge may nominate a Judge Pro-tem to serve on a particular case subject to approval by the Tribal Council. The Judge Pro-tem will cease to have any official status as a judge for the Tribe at the conclusion of the matter he is handling.

2.05.037 - Judicial Supervisor or Administrator

The Tribe shall appoint or hire a Judicial Supervisor or Administrator and any other necessary Judicial Officers as are necessary for the effective and efficient management and operation of the Tribal Court. The Judicial Supervisor shall be responsible for the administration

of the Court, shall assign cases, manage the Court calendar and shall, consistent with personnel policies and budget constraints, hire such staff as necessary for the efficient operation of the Court.

2.05.040 - Tribal Court - Tribal Prosecutor (Amended by resolution # 2007/059)

The Tribal Council shall appoint or hire a prosecutor and such assistants necessary to represent the Stillaguamish Tribe in Court and to perform the duties commonly associated with the office of prosecutor. Pursuant to the rules of the Court the prosecutor shall have the authority represent the Stillaguamish Tribe as its advocate in any criminal or civil violation proceeding and in any other civil proceeding as directed by the Tribal Council.

2.05.045 - Tribal Court - Court Clerk

The Tribal Council shall appoint or hire a Clerk of the Court to perform and carry out all traditional responsibilities of the position including, but not limited to, the administering of oaths and, at the direction of the Chief Judge or Judicial Marshal, administration of other Court functions.

2.05.047 – Tribal Courts – Court Marshal and Other Judiciary Staff (Amended by resolution 2008/041)

1) The Tribal Court with consent of the Executive Director may appoint a Chief Court Marshal or deputize other judiciary, corrections or law enforcement staff, consistent with personnel policies and budget constraints, to perform duties such as deputy court clerk, court bailiffs/marshals, or probation officers as needed provided said person(s) meet minimum training and qualifications for the positions as commonly established.

2) Those positions that include authority to arrest or detain persons, or to carry firearms, shall require the Chief Marshal to coordinate the selection of such staff with the Chief of Tribal Police to ensure such staff meet the basic requirements for tribal enforcement staff. In the event a person is arrested or detained by the Chief Marshal, Bailiff or other authorized personnel during court or pursuant to a court order, the Chief Marshal shall give a courtesy notification to the Chief of Tribal Police as soon as practicable.

3) Nothing in this section shall be construed as any management authority of court staff by the police department.

Section repealed:

2.05.050 - Tribal Court - Disposition of Monies

All fines, bonds, court costs and other assessments made by the Court shall be paid to the Clerk of the Court, who shall cause them to be deposited in the Tribe's general Fund for disbursement by the Tribal Council to be used within the Tribal Court System and the enforcement of Law and Order Codes. Ten percent (10%) of fines, bonds, or court costs and other assessments paid by offenders shall be distributed to the tribal law enforcement agencies. Ten percent (10%) shall be designated for victim compensation. The remaining eighty percent (80%) shall remain for use in the Court System. Provided, however, that the Clerk may maintain a petty cash fund of up to \$100.00, with a full and accurate accounting of such fund to be made available to the Tribal Council upon request.

CHAPTER 3.05 - COURT CONDUCT

3.05.005 - Conduct of Court Proceedings

All court proceedings shall be conducted in a dignified and respectful manner. All persons addressing the Court shall rise and speak in a clear and courteous manner.

3.05.010 - Notice of Scheduling

All hearings, including but not limited to trials, shall be commenced at a designated time determined by the Court with reasonable notice of such time given to the parties.

3.05.015 - No Ex-Parte communication with Jurors

No person, including members of the court's staff, any of the parties or witnesses, nor any other person shall discuss with any known juror any case pending before such juror or which may come before such juror, either before or during the trial. Any juror who has personal knowledge about the case or who has discussed it with any of the parties, witnesses or court officials may be excused by the judge. Any person who discusses a case with and/or harasses a juror will be guilty of Contempt of Court and fined accordingly.

3.05.020 - No Ex-Parte communication with Judge

No witness or party to any case shall under any circumstances, whether before or during trial, attempt to discuss the merits of any case pending before the Court with any of the judges except in open court and with either the clerk of the court or one of the judges present and then shall under no circumstances attempt to influence the Court's decision unless in the course of regular court proceedings. Any person found to have violated this section shall be guilty of Contempt of Court and fined accordingly.

3.05.025 – Right to Counsel - General

Any person appearing in Tribal Court shall have the right to an advocate at his own expense to assist him in presenting his case, provided that such advocate shall first have been admitted to the Tribal Court Bar. The Court may appoint an advocate to assist any person if, in the discretion of the Court, it appears necessary to protect such person's rights. An advocate need not be licensed to practice law in any other jurisdiction. Any person has the right to appear before the Court in his own defense.

CHAPTER 3.10 - TRIBAL COURT BAR

3.10.005 - Tribal Court Bar – (Amended by resolution #2005/011)

Admission into the Stillaguamish Tribal Court Bar is a privilege, not a right.

To be admitted to the Tribal Court Bar, a person must:

- 1) Be of good moral character;
- 2) Be at least eighteen (18) years of age;
- 3) Swear to and sign, in the presence of the Court Clerk or Judicial Marshal or his designee, the Advocate's Oath as provided in 3.10.010 below;
- 4) Submit an application for admission to the Chief Judge or his designee; and
- 5) Have such application approved by the Chief Judge or his designee.

An application for admission to the Tribal Court Bar shall contain, at a minimum:

- 1) At least two (2) references from adults not related to the applicant attesting to the applicant's good moral character;
- 2) A photocopy of the applicant's driver's license or other government issued identification that provides proof of the applicant's age as well as the applicant's name and address;
- 3) If the applicant is an attorney licensed to practice in another jurisdiction, the bar or license number for that attorney in that jurisdiction;
- 4) The signed and sworn advocate's oath; and
- 5) A signed consent form to authorize Stillaguamish Law Enforcement or its designee to conduct a criminal history background check.

Each application must be accompanied by a non-refundable \$50.00 processing and admission fee. If the applicant feels that this fee presents an undue financial burden, said applicant must fill out a Request for Fee Waiver. Filling out this request does not guarantee that the applicant will be admitted without payment of the fee. Attorneys for the Tribe and/or Tribal departments are exempt from this fee.

The Chief Judge or his designee shall review each application for admission to the Tribal Court Bar. The court shall undertake such background investigation as it deems necessary to determine that the applicant meets the Court's criteria.

If the Chief Judge or his designee determines that an applicant does not meet all the criteria set out in subsection 3.10.005(1), the Court shall send a preliminary determination of denial to the applicant.

The preliminary determination of denial shall be in writing and shall explain the reasons for denial.

An applicant who receives a preliminary determination of denial may appeal that determination to the Court of Appeals by submitting reasons in writing, along with any supporting evidence, including affidavits, as to why the preliminary determination of denial is in error.

An appeal must be filed within fourteen (14) days of receipt of the preliminary determination of denial. The appeal must be in writing and must be accompanied by a filing fee of fifty dollars (\$50.00).

If no appeal is filed within fourteen (14) days, the preliminary determination of denial shall become final.

If an appeal is filed, the Court of Appeals shall consider the information submitted and make a final determination within thirty (30) days.

The decision by the Court of Appeals as to whether or not to admit an applicant shall be final.

Once an applicant is admitted to the Tribal Court Bar, such admission shall be conditional for the first six (6) months. If applicant does not appear in a legally justifiable case or controversy during this time, or if the applicant is found by the Chief Judge to be using this bar admission for any unlawful purpose (as determined within the sole discretion of the Chief Judge), said admission shall be revoked. Applicant shall have the right to appeal the revocation of conditional admission in accordance with the procedures listed in (5) above.

The Tribal Court shall have the authority to further establish policies, procedures and criteria for the administrative regulation of the Tribal Court Bar.

3.10.010 - Tribal Court Bar - Advocate's Oath

Each successful applicant, prior to being able to argue in open court or file documents in any case or controversy, must recite the following oath, on the record:

I, _____ do solemnly swear:

I have read the Stillaguamish Tribe of Indians Constitution and laws and am familiar with their contents; I will support the Constitution of the Stillaguamish Tribe in all respects;

I will abide by the rules established by the Stillaguamish Tribal Council and the Stillaguamish Tribal Court; I will at all times maintain the respect due the Tribal Court and its officers; I will employ such means only as are consistent with truth and honor and will never seek to mislead a judge or jury by any false statements; and I will abstain from all offensive conduct in the Tribal Court.

Applicant for Admission

Subscribed and sworn to before me this _____ day of _____ 20____.

Court Clerk

3.10.015 - Tribal Court Bar - Roster

The Judicial Marshall or the Court Clerk will maintain a roster of all advocates admitted to practice before the Court. The Marshal or Clerk will also keep on file the signed oaths of all such persons.

3.10.020 - Tribal Court Bar - Disbarment

Any advocate violating the Advocate's Oath shall be subject to disbarment. Such action shall be initiated by the Chief Judge, and shall result in immediate suspension pending action by the Court of Appeals. The Chief Judge shall prepare a complaint against such advocate in writing.

Such complaint shall include reasons for disbarment. Said complaint shall be forwarded to the advocate, giving the advocate ten (10) days to respond in writing to the reasons cited in the complaint. Within ten (10) days of receipt of such complaint and response, the Court of Appeals shall make a written determination on whether to uphold or reverse the disbarment. The decision of the Court of Appeals shall be final.

3.10.025 - Tribal Court Bar - Contempt of Court

Any advocate failing to maintain the respect due the Court or engaging in offensive conduct in the courtroom shall be deemed guilty of Contempt of Court and subject to immediate sentencing by the Court to imprisonment for a period not to exceed three (3) days and/or a fine not to exceed \$500.00.

3.10.030 - Tribal Court Bar – Appeals for Contempt of Court

Any Advocate found guilty of Contempt of Court by the Tribal Court Judge may appeal to the Court of Appeals. Such person shall have the right to a hearing before the appellate court within ten (10) days of his denial or conviction and shall have the right to present witnesses and present a defense. The decision of the Court of Appeals shall be final.

CHAPTER 3.15 – WITNESSES (Amended by resolution # 2007/059)

3.15.005 - Witnesses - Subpoenas

Upon his own motion or upon the motion of any of the parties to the case, the Judge or Court Commissioner shall issue subpoenas ordering the appearance of witnesses. Service of subpoenas in civil cases shall be by Tribal enforcement officers or any other person of legal age who is not a party to the case and in criminal cases, Tribal enforcement officers or any other person appointed by the Court for that purpose.

The Court may issue investigative subpoenas, summons and search warrants and other writs upon the request of a prosecutor, law enforcement or regulatory agent, based upon statements sworn to before a judge or commissioner in any criminal or civil matter.

In civil matters before the Court, any party other than the Tribe or any department of the Tribe who requests Tribal court or police officers to serve subpoenas on witnesses shall pay a fee of \$20 per subpoena to the court, prior to said service or attempted service.

3.15.010 - Witnesses - Fees

Each witness answering a subpoena shall be entitled to reimbursement at the rate of ten dollars (\$10.00) per day for each day his/her services are required in court, plus reimbursement, at the prevailing government rate per mile, for travel to and from court, subject to the availability of funds.

3.15.015 - Witnesses - Oath or Affirmation

Each witness shall be given the following oath or affirmation by the Court: “Under the penalties of perjury under the laws of the Stillaguamish Tribe and the State of Washington, do you swear (or affirm) to tell the truth in the matter now before you?”

CHAPTER 3.20 - JURIES

3.20.005 – Jury Trials – When Used; Right to Jury Trial

Every person accused of a crime which carries a possible jail sentence under Stillaguamish Tribal Code has the right to trial by a six-member jury. Criminal cases shall be heard by a judge (bench trial) unless the defendant asks for a jury trial. A request for a jury trial may be made orally in open court or in writing and it must be made at least ten days before the scheduled trial. Juvenile matters will only be heard before a judge (bench trial).

3.20.010 - Juries - Eligibility

A list of Stillaguamish Tribal members and/or persons who reside or work within the jurisdiction of the Stillaguamish Tribe and who are at least eighteen (18) years of age shall be prepared by the Judicial Marshal or Court Clerk and submitted to Tribal Court each year. A person may decline jury duty upon good cause presented to the Chief Judge. Enrollment in the Stillaguamish Tribe shall not be a prerequisite to serving as a juror in tribal court. Any employee of the Tribe or any Tribal department or Enterprise (including but not limited to the Tribal casino) shall be entered into the pool of eligible jurors, as well as any and all persons residing within the jurisdiction of the Tribe. Stillaguamish Tribal law enforcement officers, Tribal Board of Directors members, and persons who are mentally or physically unable to perform a juror's duties are not eligible to serve.

3.20.015 - Juries - Number of Jurors

A jury shall consist of six jurors plus one alternate juror.

3.20.020 - Jurors - Selecting a Jury

In cases to be tried by a jury, twelve names from the eligible jurors list shall be drawn by lot under the supervision of the Court Clerk or the Clerk's designee. Initially, six potential jurors shall be seated. One alternate juror shall be selected in the event any member of the jury is removed. The parties shall be permitted to alternately question each juror as to his/her impartiality and fairness. Each of the parties, starting with the complainant, shall alternately have an opportunity to challenge up to two jurors for cause, and up to one juror without cause. The Judge shall excuse a juror immediately when peremptorily challenged by either party. The Judge will make a determination on a case-by-case basis when a challenge for cause is made. As each juror is excused, the Clerk shall draw the name of another juror to take his/her place and the parties shall alternately have an opportunity to examine such juror as to the juror's impartiality and fairness. A jury shall be impaneled upon the selection of six jurors and one alternate juror to sit in the event any member of the six jury panel is removed.

3.20.025 - Juries - Jury Instructions

The jury shall hear all evidence about the facts of the case. The judge shall instruct the jury in the laws governing the facts. Either party may propose instructions to the jury, which may be allowed by the trial judge if he finds that such instructions further the interests of justice. In all jury cases, the judge shall instruct the jury that they shall retire to consider the matter, select a foreperson, and that each juror shall be given an opportunity to state his/her opinion as it relates to

the facts presented and the law to be applied. Jurors shall not consider evidence unless it was properly presented and admitted by the trial Judge. Jurors shall not consider any outside or excluded information, nor shall jurors utilize personal knowledge or experience to influence fellow jurors in any way that may be unlawful.

3.20.030 - Jury - Verdict

At the end of jury deliberations resulting in a verdict, the jury shall present to the Judge a written verdict, which the Judge shall then read into the record. The verdict shall be announced as guilty or not guilty on every charge against the defendant.

If a verdict of not guilty is announced, the Judge shall record that defendant was acquitted, the clerk shall enter the acquittal in the official record along with names of the jurors in the case, and the defendant shall immediately be released from custody.

If a verdict of guilty is announced, the Judge shall set a time for sentencing. If all parties agree, sentencing may take place immediately.

3.20.035 - Juries - Fees

Every person who is required to serve as a juror shall be entitled to a fee of ten (\$10.00) dollars a day for each day his services are required in court, plus reimbursement for mileage at the prevailing government rate for traveling to and from the Court.

CHAPTER 4.05 - CRIMINAL PROCEDURE PURPOSE

4.05.005 - Purpose - Rules of Criminal Procedure

The purpose of the Rules of Criminal Procedure is to provide procedures governing criminal matters within the jurisdiction of the Stillaguamish Tribe of Indians.

CHAPTER 4.10 – STATUTE OF LIMITATIONS

4.10.005 - Statute of Limitations

No complaint may be filed for any alleged violation of the Stillaguamish Law and Order Code or for any alleged violation of the Stillaguamish Fishing or Hunting Ordinances if more than two years has passed since the alleged violation was committed. Notwithstanding the previous sentence, there shall be no time limitation on filing complaints for violations of any Class A Offense.

CHAPTER 4.15 - COMPLAINTS

4.15.005 - Complaint – Defined (Amended by resolution #2007/059)

All criminal or civil prosecutions for offenses under Tribal law shall be initiated by Complaint. A Complaint is a written statement sworn by the complaining witness and charging that a named individual has committed a particular criminal or civil offense.

Any civil offence described within the Tribal Law and Order Code and committed within the jurisdiction of the Tribe shall be presented to the Tribal Prosecutor for prosecution, who may thereafter if in the interest of justice, refer the violation to a county, state or federal prosecutor.

4.15.010 - Complaint - Requirements

A Complaint shall contain:

- 1) The signature of a Tribal enforcement officer or prosecutor if he/she is the complaining party (complainant);
- 2) a written statement by the complainant witness describing in ordinary language the nature of the offense committed, including the time and place as nearly as may be ascertained;
- 3) The section of Tribal law allegedly violated; and
- 4) The maximum sentence available in the event the defendant is found guilty.

4.15.015 - Complaints – Sufficiency of Police Report/Citation

The Tribal Prosecutor or other officer of the Court shall not issue a Complaint without having first received a police report and/or citation from the citing Law Enforcement Officer. The report or citation must contain enough information to make it clear to the Prosecutor that there is probable cause to issue a Complaint. Complaints shall be submitted without unnecessary delay to the Tribal Court to determine whether a warrant or summons should be issued.

4.15.020 - Complaints - Issuance of Summons

If the Court believes that the accused does not pose an immediate threat to the health, safety, and/or welfare of the Tribe or the alleged victim, the Court shall issue a summons commanding the accused to appear before the Court at a specified time and place to answer to the charge.

4.15.022 – Complaints - Arrest Warrant

If the Complaint, or a complaint together with other sworn statements, is sufficient to establish probable cause to believe that a crime has been committed by the person identified as the accused, and if the Court reasonably believes that the accused poses an immediate threat to the health, safety and/or welfare of the Tribe or any alleged victim, the Court may issue an Arrest Warrant pursuant to this code instructing tribal law enforcement officers to arrest the named accused. The accused shall be held until arraignment.

4.15.025 - Complaint - Must Be Filed By Arraignment

When an accused has been arrested without a Warrant, a Complaint shall be filed with the Court at or before arraignment for review as to whether probable cause exists for the Complaint to be issued.

4.15.030 - Complaint - Separate Violations; Lesser, Included Offenses

When an accused is to be charged with several offenses a separate complaint shall be made and filed for each offense.

Separate complaints need not be filed for offenses that are inherently included within the meaning of the offense for which a complaint has been filed, but are punishable by a less severe penalty.

CHAPTER 4.20 - ARREST

4.20.005 - Arrests - Defined

Arrest is the taking of a person into custody by a law enforcement officer or other authorized person. Any arrest conducted by a tribal police officer without a warrant shall undergo judicial review at a probable cause hearing within 48 hours of arrest in accordance with this code.

4.20.010 - Arrests - Without a Warrant

No Tribal law enforcement officer shall arrest any person for a criminal offense set out in the Stillaguamish Fishing Ordinance or Law and Order Code except when:

- 1) The officer shall have a Warrant or a copy of an existing Warrant signed by a Judge or Judicial Officer commanding the arrest of such person; or
- 2) The criminal offense occurred in the presence of the arresting officer; or
- 3) The officer shall have probable cause to believe that the person to be arrested has committed a criminal offense.

4.20.015 - Citation/Referral in Lieu of Physical Arrest

When an enforcement officer has probable cause to believe that a person has committed a criminal offense and the Tribe has jurisdiction over the person and the offense, and the officer has reasonable grounds to believe that the defendant will appear in court and does not pose a threat of immediate harm to the health, safety and/or welfare of the Tribe or an alleged victim, the officer may issue to the accused a citation instead of keeping him or her in custody.

The citation shall include:

- 1) The name of the Court;
- 2) The name of the offense(s) charged and the official citation of the code provision of the offense(s);
- 3) the name of the person charged, his or her address, telephone number, date of birth, sex, tribal status and general description, if available;
- 4) The place and time where the alleged violation occurred;
- 5) The time, date, and place at which the person is to appear in court;
- 6) The signature of the citing officer; and
- 7) His signature of the accused, following a statement that he/she promises to appear in Court at the specified date, time, and place.

If the person accused is not served with a citation or if he or she does not sign the statement in the citation promising to appear in Court, the matter shall be referred directly to the Tribal Prosecutor. The referral shall include the items listed in (1) through (6) above, and shall be marked with "Refused to Sign" on the signature line. Attached to the referral shall be a copy of the incident report, including listings of any evidence collected and/or held by the Tribal Police.

CHAPTER 4.25 - EXTRATERRITORIAL ARREST

4.25.005 - Extraterritorial Fresh Pursuit - Authority to Arrest

Any duly authorized law enforcement officer of the Stillaguamish Tribe who initiates a fresh pursuit of a person believed to have committed a criminal offense from any lands under the jurisdiction of the Stillaguamish Tribe and continues within the State of Washington in such fresh pursuit, shall have the same authority to arrest and hold such person in custody as if the arrest were made within the jurisdiction of the Stillaguamish Tribe.

Fresh pursuit shall not necessarily imply instant pursuit but pursuit without unreasonable delay after the time of occurrence of the alleged offense.

4.25.010 - Extraterritorial Transport and Custody

Any Stillaguamish law enforcement officer or any federal, state, county or other tribal law enforcement officer duly authorized by the Stillaguamish Tribe to carry out the purposes of this section shall have the following authority outside the territorial jurisdiction of the Stillaguamish Tribe with respect to persons in custody after a lawful arrest by Stillaguamish law enforcement or under an order issued by the Stillaguamish Tribal Court:

- 1) To transport the persons and hold them in custody from the site of arrest to the Stillaguamish Tribe;
- 2) To transport the persons and hold them in custody to or from a detention facility until arraignment in Stillaguamish Tribal Court; and
- 3) To transport the persons to or from and to hold them in custody in a detention facility, correction institution or other such institution, pursuant to a Stillaguamish Tribal Court Order.

4.25.015 – Unlawful Arrest Not Made Lawful

This section shall not be construed so as to make lawful any arrest which would otherwise be unlawful.

CHAPTER 4.30 - ARREST WARRANT, SUMMONS

4.30.005 - Issuance of a Warrant on Probable Cause

A Judge or Judicial Officer of the Court shall have authority to issue a warrant to arrest and such warrant shall be issued only upon a showing of probable cause in sworn written statements. The Judge or Judicial Officer shall deny the issuance of a warrant if it is found by the Court that probable cause has not been established in the information contained in the sworn statements presented to the Court.

4.30.010 - Arrests - Warrant Requirements

The arrest warrant shall contain the following information:

1. Name and description, including address if known, of the person to be arrested;
2. Tribal status of the person to be arrested, if known;
3. Date of issuance;
4. Description of the offense charged;
5. Signature of the issuing Judge or Judicial Officer.

4.30.015 - Arrest - Notification of Rights

Upon arrest the suspect shall be advised of the following:

1. "You have the right to remain silent"
2. "Anything you say can and will be used against you in court"
3. "You have the right to obtain counsel at your own expense"
4. "You are under arrest for _____"
5. "Do you understand the rights I have advised you of?"

If arrested pursuant to a warrant, the suspect shall receive a copy of the warrant at the time of the arrest or as soon as possible thereafter.

Failure to advise the suspect of his/her rights shall not invalidate an arrest, but may cause any statements made by the suspect during questioning by police to be inadmissible as evidence against him/her.

4.30.020 - Summons - In Lieu of Custodial Arrest

When probable cause exists to arrest a suspect, a law enforcement officer, prosecutor, Judge or Judicial Officer may, in lieu of a custodial arrest, issue a summons commanding the accused to appear before the Court at a stated time and place to answer the charge.

If an accused fails to appear in response to a summons, a warrant for the arrest of the accused shall be issued.

CHAPTER 4.35 - SEARCH WARRANTS

4.35.005 - Search Warrants - Defined Requirements

A search warrant is a written order, signed by a Judge or Judicial Officer and directed to a law enforcement officer ordering said officer to conduct a search to seize items or property specified in the warrant. A warrant shall describe with particularity the person, place, or thing to be searched and property to be seized. It shall command any enforcement officer to search the person, place, or thing named for the property specified. Additional terms for carrying out a warrant may be included in the warrant at the discretion of the issuing Judge.

4.35.010 - Search Warrant - Issuance: Probable Cause

A Judge or Judicial Officer shall have the power to issue warrants for the search of any person, vehicle, land, or structure and the seizure of all evidence or property under the jurisdiction of the Court.

No warrant of search and seizure shall be issued except upon the finding of probable cause to believe that a search will discover criminally possessed property or evidence or property which has been, or is being, used to commit a criminal offense. Such probable cause shall be supported by a written and sworn statement based upon information provided by law enforcement officer(s), informants, and/or other people having knowledge of the facts asserted.

4.35.015 – Search Warrant – Issuance via Telephone or other Communication Device

Whenever necessary and appropriate, the Tribal Judge shall direct by telephone, facsimile transmission, or electronic mail (email) the Court Clerk to sign the Judge's name to a search warrant. When this occurs, the Judge shall enter into the record of the case an affidavit acknowledging this action.

4.35.020 - Search Warrant - Execution and Return

Warrants of search and seizure shall be executed by tribal law enforcement officers. The executing officer shall return the warrant and an inventory of property or evidence seized to the tribal court within the time limit shown on the face of the warrant, which in no case shall be longer than ten (10) days from the date of issuance. A copy of the warrant and a receipt for any items seized shall be given to the person from whose possession or premises the items are seized. If no such person is present, a copy of the warrant and the receipt shall be posted in a conspicuous location.

Warrants that have not been carried out shall be returned to the Court Clerk immediately after they expire.

Searches shall be carried out in the manner that poses the least possible disruption to the person's vehicle, land, body, and/or structures and to any third parties, with as little property damage as possible.

CHAPTER 4.40 - SEARCH AND SEIZURE

4.40.005 - Search and Seizure - Without a Warrant

No tribal law enforcement officer shall conduct any search without a valid warrant except:

- 1) incident to a lawful arrest or criminal citation for which a lawful arrest could be made; or
- 2) with consent of the person who has control of the body, property, and or location(s) that are being searched; or
- 3) when the officer has a lawful right to be present and the officer has probable cause to believe what is in plain view is evidence, contraband, or stolen or embezzled property; or
- 4) when the officer can articulate that evidence is likely to be compromised or destroyed without immediate seizure; or
- 5) when the officer has reasonable suspicion to believe that the person may be armed; or

- 6) when the search is of a vehicle, including a boat, and the officer has probable cause to believe that it contains contraband, stolen, or embezzled property; or
- 7) when the officer has probable cause to believe that a vehicle is a crime scene and immediate seizure is necessary to prevent the destruction or alteration of evidence.

Provided, however, that searches made in enforcement of the Stillaguamish Fishing Ordinance and Law and Order Codes Ordinances shall be made in accordance with the provisions of that Ordinance dealing with searches. And provided further that property seized in the enforcement of the Stillaguamish Fishing Ordinances and Law and Order Codes and Ordinances and Regulations hereunder shall be placed in custody according to the provisions of that Ordinance.

4.40.010 - Disposition of Seized Property - Receipt

When an enforcement officer seizes property under this Chapter, that officer shall make a receipt for the property seized. The receipt may be part of a citation, or may be on a separate form. The receipt shall provide information sufficient to permit identification and an approximate estimate of the value of property seized to include the following when available: date, time, and place of seizure, name of seizing officer, description of the goods seized, including serial numbers, and for fish, weight and number of fish for each species seized and any other information likely to identify or indicate the value of the property seized. The enforcement officer shall sign the receipt and shall request the person from whose premises or possession the property is seized, if available, to also sign the receipt.

4.40.015 - Disposition of Seized Property - Chain of Custody

The property officer, who shall be the Chief Law Enforcement Officer or his designee, shall be the sole person responsible for seized property and providing access to such property. This officer shall also be responsible for ensuring that no unauthorized persons gain access to the seized property. This officer shall further be responsible for maintaining a record of the chain of custody of each item seized, to include the following: name of seizing officer, date, time, and place, of seizure, date and manner of moving the property, location of storage reference to receipt and inventory, and time, date, and place of inspection and name of person inspecting the property.

4.40.020 - Disposition of Seized Property - Inventory

The property officer shall complete an inventory of all seized property, including all things that are not permanently attached to the seized property. The inventory shall include the following:

- 1) A complete description of all seized property to include, where reasonably available, the following: common name, serial numbers, colors, size and/or weight, approximation of value, and any other distinguishing characteristics;
- 2) Name of person from whom the property was seized and owner, if known, date, place, and time of seizure and name of seizing officer;
- 3) Referral to identification tag; and
- 4) Signature of property officer and date of inventory.

4.40.025 - Disposition of Seized Property - Evidence

Except as provided in Section 4.20.030, property seized as evidence shall be released to the owner upon satisfactory proof of ownership and/or a final judgment of the Court in favor of said owner.

4.40.030 - Disposition of Seized Property - Contraband

Property confiscated as contraband shall become the property of the community and may be destroyed, sold at public auction, retained for the benefit of the Tribe or otherwise lawfully disposed of as ordered by the Court.

“Contraband” means, for purposes of this section, any items that are unlawful to possess or use under any provision of this Code. Such items are subject to seizure and forfeiture and no property rights exist in them.

4.40.035 - Disposition of Seized Property - Found/Unclaimed

At the direction of the Chief of Police, any found property unclaimed by the rightful owner within sixty (60) days may be released to the finder, converted to use by the Tribe, or destroyed.

4.40.040 - Disposition of Seized Property - Property Seized by Mistake:

The Judge may, upon recommendation of the prosecutor or Tribal legal counsel, order property seized by mistake to be returned to the person who had possession of it, upon a clear and convincing showing that a mistake was made and the person requesting the return of the property is entitled to its possession or is acting on behalf of and with the authority of the person who is entitled to its possession. This shall not apply to property that is unlawful to possess or was obtained unlawfully.

4.40.045 - Disposition of Seized Property - Owner or Possessor Unknown:

When the owner or possessor of seized property is unknown, the Tribal Police shall post a notice at the Tribal Center for twenty (20) days or until the property is claimed, whichever occurs first. The notice shall contain a general description of the property, the time, place, and date of seizure and notification that the owner or possessor may be required to pay impoundment and storage fees and that he or she may be subject to criminal prosecution, if applicable. The notice shall also state that if the property is not lawfully claimed by anyone within twenty (20) days after seizure, it shall be deemed abandoned. The property shall automatically become property of the Stillaguamish Tribe sixty (60) days after the date of seizure if no person has applied to the Tribal Court for return of the property by that time.

4.40.050 - Disposition of Seized Property - Return after Adjudication of Case:

Upon a verdict, bail forfeiture, order of dismissal, or other final order, the Court shall determine the disposition of any property seized in connection with the case. The Court shall order the return of the property to the owner or lawful possessor, unless:

- 1) The property is illegal to possess or was obtained illegally;
- 2) The Tribe shows clearly and convincingly that it must retain control of the property for a future timely criminal prosecution; or
- 3) The Judge determines that, based upon defendant's past failure to pay fines or otherwise obey lawful court orders, it is necessary to retain the property for sixty (60) days as

collateral against the payment of fines. If property is retained under this subsection and the fine is not paid, the court may declare the item(s) to be property of the Tribe and to be sold to satisfy the unpaid fine.

4.40.055 - Right to Appeal

The owner or lawful possessor of property or the Tribe may appeal an order disposing of property under this Chapter.

4.40.060 - Disposition Pending Appeal

1) Within twenty-four (24) hours after an order of disposition is entered under this Chapter, either the Tribe or the owner or lawful possessor of property may petition the Court for a temporary order controlling the property pending appeal of the disposition order.

2) No property shall be released pursuant to a disposition order under this Chapter until the twenty-four (24) hour period has passed, unless all parties agree. If no petition for a temporary order controlling the property pending appeal is presented within twenty-four (24) hours, the property shall be disposed of in accordance with the order of the Court. If such a petition is presented, the court shall, at a hearing to be held within one week of the disposition order, provide for temporary control of the property and set a date for hearing the appeal from the disposition order.

CHAPTER 4.45 – PROBABLE CAUSE AND ARRAIGNMENT

4.45.005 Probable Cause

Probable Cause Determination: When a person is detained in a detention facility based on a probable cause arrest by a tribal police officer, a hearing shall be held within forty-eight (48) hours of placement in the detention facility. The hearing may be held telephonically and may be ex parte. If it is determined that probable cause exists, the court shall set a bail hearing, at which time the Court will set bail in accordance with this code and an arraignment will be scheduled.

4.45.010 - Arraignment - Rights of Accused

Before an accused is required to plead to any criminal charge the judge or judicial officer shall advise the accused that:

- 1) he or she has the right to remain silent;
- 2) to be tried by jury if the offense charged is punishable by imprisonment;
- 3) to be represented by counsel at the accused's expense;
- 4) that the arraignment may be continued should the accused desire to consult with counsel;
- 5) he or she has the right to have the court order any witness against the defendant appear and testify at trial;
- 6) he or she has the right to question all witnesses against the defendant;
- 7) he or she has the right to call witnesses on the defendant's behalf; and
- 8) he or she has the right to a fair public trial.

The Judge or judicial officer shall also read the charging document(s) to the accused and determine whether he or she understands the complaint and the section of the tribal code which he or she is charged with violating, including the maximum authorized penalty.

4.45.015 Right to Preliminary Hearing

A defendant shall be informed of his right to a preliminary hearing at arraignment. Unless the defendant waives his right to a preliminary hearing, it shall be held as soon as practicable but in any event within five days if the defendant is in custody or within 45 days if the defendant is not in custody. The time may be extended for good cause shown.

- 1) The defendant may be represented by an advocate and may present evidence on any relevant issue. However, the hearing may not be used for purposes of discovery.
- 2) The Court shall issue subpoenas for any witness when requested by the tribal prosecutor or the defendant for the preliminary hearing.
- 3) The prosecution witnesses shall be sworn and examined in the presence of the defendant and may be cross-examined by the defendant.
- 4) The witnesses of the defendant, if the defendant produces any, shall be sworn and examined, and may be cross-examined by the tribal prosecutor. The tribal prosecutor may produce rebuttal testimony if the defendant produces any witnesses.
- 5) The Court may exclude the witnesses during examination of other witnesses, except that a victim/witness, or parent of a minor victim/witness may not be excluded.
- 6) The testimony of a witness shall be given orally in the presence of the Court, except in the case of a witness whose testimony is taken by deposition by order of the Court in pursuance of the consent of the parties.

- 7) The tribal prosecutor shall have the burden of proof in this hearing, which shall be by a preponderance of evidence.
- 8) After hearing the evidence, unless there is a showing of probable cause that a crime has been committed and that the defendant committed it, the Court shall dismiss the complaint and order the defendant to be discharged.
- 9) If, when the case is called for hearing, the defendant appears for hearing and the tribal prosecutor is not ready and does not show any sufficient cause for postponing the hearing, the Court shall order the complaint to be dismissed.
- 10) If the Court orders the complaint to be dismissed, the order is not a bar to another action for the same crime unless the Court so directs.

4.45.025 - Arraignment - Receipt of Plea

If at arraignment the accused pleads "Not Guilty" to the charge, the Judge or Judicial Officer shall then inform the accused of a trial date and may set conditions for bail or other release conditions prior to trial.

If the accused pleads "Guilty" to the charge the Judge or Judicial Officer shall determine: If the plea is made freely and voluntarily, without threats, coercion or promises; and That the accused understands the consequences of the plea, including the rights that the accused is waiving by entering a plea of guilty.

The Judge or Judicial Officer may then impose a sentence or defer sentencing in order to obtain any information deemed necessary for the imposition of a just sentence. The accused shall be afforded an opportunity to present to the Court facts to be considered in mitigation of any sentence.

If the accused refuses to plead, the judge or Judicial officer shall enter a plea of "Not Guilty" on behalf of the accused.

Upon a plea of "Not Guilty" the Judge or Judicial Officer shall set a trial date of not less than seven (7) days or more than sixty (60) days from the date of arraignment if the accused is in custody, and not more than ninety (90) days if the accused is not in custody, unless a longer period is requested by the accused.

The court on its own motion may continue a case when required in the administration of justice and when the defendant will not be substantially prejudiced by the delay.

4.45.030 - Withdrawal of Guilty Plea

In the interest of justice, the Court has discretion to allow an accused to withdraw a plea of guilty.

4.45.035 - Motions during Arraignment

- 1) Any defense or objection which may be decided by the Court without a trial on the facts and any request for changes in the conditions of release until trial may be raised at arraignment.
- 2) Motions which raise complaints about the way a prosecution was started should be made at arraignment. Such motions include motions to dismiss because of the defective complaint, a defective warrant, improper delivery of the summons or an unnecessary delay in the arraignment.

CHAPTER 4.50 - BAIL

4.50.005 - Bail - Release before Trial

Any person charged with a criminal offense under the laws of the Stillaguamish Indian Tribe shall be entitled to release from custody pending trial under the following circumstances:

- 1) Release on personal recognizance upon execution of a written promise to appear at trial and all other required times, provided that the Court determines that sufficient factors are present to assure the Court that the accused will appear at trial. The Court shall establish a list of factors to be considered in determining whether an accused shall be granted release on personal recognition.
- 2) Release after posting bond with the Court either in cash or other collateral in an amount specified by the bail schedule, or as determined by the Chief Judge or Judicial Officer.
- 3) Release upon any condition deemed reasonably necessary by the Court to ensure the appearance of the accused as required, including, but not limited to reasonable restrictions on travel, social interactions and/or place of residence during the period of release.

4.50.010 - Bail - Release by Law Enforcement

Any law enforcement officer authorized to do so by the Court may release an arrested person pursuant to the established bail schedule. Law enforcement officers shall have available a bail schedule determined by the Tribal Council which shall be used for determining monetary bond. Any law enforcement officer who refuses to release an accused on bail or who specifies a bail condition which the accused is unable to satisfy shall bring such accused before a Judge or Judicial officer for review of the release conditions at the first available opportunity. A bail hearing shall be held at the time of arraignment for any persons in custody.

4.50.015 - Bail – Release Pending Appeal

A person who has been convicted of a criminal offense by the Tribal Court and who has filed an appeal or a Writ of Habeas Corpus is subject to the provisions of this code. Detention may be ordered if the trial judge has substantial reason to believe that no conditions of release will reasonably assure the appearance of the accused or that release of the accused is likely to pose danger to the health, safety and/or welfare of the accused, any another person, or to the community.

CHAPTER 4.55 - SUBPOENAS

4.55.005 - Subpoenas – Issuance

Upon the request of any party to a case or upon its own initiative, the Court may issue subpoenas to compel the attendance of jurors, witnesses, or any physical evidence which is relevant or necessary to the determination of the case.

4.55.010 - Subpoenas – Service

A subpoena may be served by any law enforcement officer or the Court Clerk. A subpoena may also be served by any person who is at least eighteen (18) years of age or a contracted agency who is not a party to the action and is not prohibited by the Court. Service of a subpoena shall be made by personal service upon the named individual, delivery to any competent person over the age of fourteen (14) years at a residence or workplace, or by certified mail delivered to the last known address of the person to be served.

4.55.015 - Subpoenas – Return of Service

The person who has served a subpoena in accordance with Section 4.55.010 shall obtain a Return of Service form from the Court Clerk. The Return of Service shall be signed by the person who served the subpoena and shall then be filed with the Court Clerk. In the event that a subpoena is served via certified mail, the Court Clerk shall attach the signed receipt of certified mail to a blank Return of Service form for filing.

4.55.020 - Subpoenas – Failure to Obey

In the absence of a lawful justification satisfactory to and accepted by the Court, any person who fails to obey a subpoena may be deemed to be in Contempt of Court and a bench warrant may be issued for his or her arrest and/or a civil penalty may be levied.

CHAPTER 4.60 - GENERAL PROCEDURES AT TRIAL

4.60.005 - Pre-trial motions and Conferences

Questions and disputes regarding procedure and any defenses, objections, or issues which may be resolved without a trial on the facts on which the prosecution is based may be raised with the Court in the form of a motion.

Motions may be made orally or in writing. If the motion is not made during and as a consequence of events at a trial, the party making the motion shall notify the other parties of the nature and basis of the motion and the hearing time at least seven (7) days before the motion is presented in Court.

At any time after arraignment up to and including the beginning of trial, the Judge may schedule an informal conference of the Judge and all parties to consider questions of procedure and other matters which will promote a fair and efficient trial.

4.60.010 - Time of Trial

Every person charged with a criminal offense in the Stillaguamish Tribal Court has a right to a speedy trial.

In no case shall trial be held more than ninety (90) days after the arraignment unless the defendant asks for or agrees to delay, and the Judge so orders. In the case of a request for delay, the Judge may order a continuance of the trial date over the telephone.

4.60.015 - Joining or Separating Defendant's Trials

At arraignment, the Judge may order two or more defendants to be tried together if they are charged with offenses based on the same event or interrelated series of events. All defendants shall be given adequate notice that they will be tried together.

Defendants shall not be tried together if a joint trial would prejudice the ability of any defendant to present a defense or would prejudice the Tribe's ability to present its evidence.

4.60.020 - Discovery

Upon request of the defendant, prior to trial, the Tribe shall give the defendant the following:

- 1) The names of witnesses the Tribe intends to present;
- 2) Copies of or controlled access to any documents, photographs, results, and reports of examinations or tests, and objects which are within the custody and control of the Tribe and which the Tribe intends to use as evidence against the defendant or which may be relevant to the defendant's defense, including any information or material which tends to negate the defendant's guilt; and
- 3) Copies or written summaries of any statements made by defendant, which the Tribe intends to offer as evidence against the defendant.

The defendant shall inform the Tribe, upon the Tribe's request, of the names of defendant's witnesses and of the general nature of the defendant's defenses.

Nothing in this rule shall require a party to provide the other with reports, memoranda, or other internal communications which were made by the party or by his/her representatives solely in preparation for trial, except items specifically listed in this rule.

A party who receives a discovery request under this rule shall respond either with the discovery information, with an indication when and where the information will be made available, or with an objection to the request within ten (10) days after he or she receives the request. Failure to respond is grounds for a Court order either requiring response, excluding any proposed testimony to be offered based on the discovery not provided, or, under the circumstances, imposition of reasonable conditions on the release of the information requested.

4.60.025 - Order of Trial

At trial, evidence and arguments shall be presented in the following general order, unless the Judge sets or the parties agree to a different procedure:

- 1) Opening statements: The Tribal representative (Prosecutor) shall have the first opportunity to summarize evidence he or she will present and arguments he or she will make. The defendant may then make a similar summary or may want to give a summary at the beginning of defense presentation. Either party may waive the right to make an opening statement.
- 2) Tribal presentation: The Tribal representative (Prosecutor) shall present all evidence in support of the charge. Defendant shall have the right to object to evidence presented and to cross-examine witnesses but shall not present his or her own evidence at this time.
- 3) Defense presentation: This may include motions to dismiss the charges. The Tribal representative (Prosecutor) may object to defense evidence and cross-examine witnesses.
- 4) Rebuttal: After each party has presented evidence, the Judge may allow the Tribe to present evidence to rebut directly any evidence presented by the defendant. The judge may allow either side to present evidence which was mistakenly left out or unavailable earlier in the trial.
- 5) Closing arguments: At the close of trial, both parties shall have the right to make closing arguments in which they argue the law, interpret the evidence, and summarize the case as they see it. Presentation of additional evidence is not appropriate at this time.

4.60.030 - General Rules of Evidence

The purpose of these rules of evidence is to ensure that the Tribal Court is able to determine the truth of a matter before it with minimum delay, confusion, and uncertainty.

The rules of evidence used in state or federal courts shall not apply to hearings in the Stillaguamish Tribal Court.

Where there is more than one kind of evidence about the same subject, the Judge shall hear the most reliable kind of evidence. In oral testimony, persons who testify from their personal knowledge (such as first-hand observation of or participation in the event described) shall be preferred as witnesses to persons who have second-hand knowledge of the event.

Evidence admitted in Tribal Court must be related either to the issues the Judge or jury is considering or to the weight and credibility which should be given to other evidence. In a jury trial, the Judge may hear argument out of the jury's presence about whether to admit challenged evidence.

When the relevance or reliability of evidence is challenged, the Judge shall explain why the evidence will or will not be used. If the evidence is used, the Judge shall explain what importance he or she assigns to it.

The Judge may take judicial notice of facts which are a matter of official public record, even if no party introduces them as evidence.

Evidence related to the customs, traditions, and common understanding of the Stillaguamish Tribe shall be admissible as evidence by a party qualified to speak to such customs, traditions and common understandings.

4.60.035 - Self-incrimination

Every person who appears as a witness in a Stillaguamish Tribal Court has the right to refuse to answer a question if the answer may tend to incriminate the witness (that is, expose the witness to an accusation or charge of a crime).

The defendant in a criminal prosecution shall not be made to testify against his or her will. However, incriminating statements which the defendant made voluntarily out of court may be presented in court.

If a Defendant in a criminal prosecution chooses to testify on matters other than those related to his or her guilt or innocence, cross-examination shall be limited to the areas of the defendant's testimony and to matters which indicate defendant's credibility.

4.60.040 - Questioning Witnesses

When questioning a witness, the Judge and parties or their representative(s) shall not ask questions in such a way as to suggest the answer desired, unless the witness is being cross-examined or is clearly hostile to the person asking the question.

The Judge shall determine the order in which parties or their representatives shall be allowed to question witnesses. The Judge shall protect the witnesses from harassment or unnecessarily repetitive questioning.

During the questioning of a witness, the Judge may exclude from the courtroom witnesses who have not yet testified if this seems necessary to ensure that all witnesses will give truthful testimony.

The Judge may call and/or question any witnesses on his or her own initiative, provided that the Judge shall not act as prosecutor in criminal proceedings.

4.60.045 - Written Testimony and Documentary Evidence

Testimony of a witness may be presented in written form if:

- 1) The witness is unable to appear in person or testify and the evidence presented in writing is not contradicted by other parties; or
- 2) The written testimony is offered to support a motion or an uncontested request for relief. Written testimony should show clearly who gave it and when the witness gave it. Testimony should be given under oath, if possible; or
- 3) To rebut live testimony provided during trial when written testimony or statements made by the witness prior to trial contradict the live testimony.

Copies of written records, photographs, and other documentary evidence may be presented as long as there is a reasonably reliable way to identify the items.

4.60.050 - Burden of Proof

In all criminal prosecutions, the burden shall be on the Tribe to prove the defendant's guilt beyond a reasonable doubt.

4.60.055 - Presence of Defendant

The defendant shall be present at all proceedings on criminal charges, unless the judge or these rules permit defendant's representative to appear on his or her behalf.

4.60.060 – Motion for New Trial

A person who is convicted by a Judge or jury may ask for a new trial within seven (7) days after sentencing. The Judge shall grant a new trial if one of the following is true:

- 1) The jury's decision was materially affected by evidence it should not have considered;
- 2) A substantial right of the defendant was materially denied;
- 3) New evidence exists which was not discoverable at or before the time of trial;
- 4) There was a material error of law made at or before trial; or
- 5) There has otherwise been a substantial miscarriage of justice.

If a new trial is granted, the Judge shall state, in writing, the legal and/or factual reasons, whether within or outside the record, upon which his or her decision is based.

CHAPTER 4.65 - SENTENCING

4.65.005 - Sentencing – Guidelines

The judges of the Court shall have broad latitude in the sentencing of persons convicted of any offense, except in cases concerning Class A Criminal Offenses, wherein the prescribed sentences shall be considered mandatory.

Sentences for multiple convictions shall be served consecutively rather than concurrently. In determining sentences, judges shall be guided by the welfare of the Tribal community and the particular need of the convicted person. Sentences may be of a nature customary with foreign systems of law, or may reflect traditional Stillaguamish remedies. Sentencing for hunting or fishing offenses shall be in accordance with the respective Stillaguamish Hunting or Fishing Ordinance.

Whether a trial is by a jury or the Court (bench trial), upon conviction the presiding Judge shall determine the sentence. The following shall guide the judge when imposing a sentence:

- 1) A defendant may be sentenced to jail, home monitoring or to a work assignment, or any combination thereof, at the discretion of the judge and the budget of the Tribe;
- 2) Fines may be paid pursuant to a payment schedule, to be determined by the judge, who shall carefully consider the person's financial resources;
- 3) In serving jail time or work assignment in lieu of paying a fine, the person shall be credited at the rate of \$25.00 per day;
- 4) The Court may direct that all or part of a fine be paid to a victim as restitution;
- 5) In the event that restitution is ordered, a separate hearing must be held to determine the amount of the victim's damages;
- 6) A defendant who testifies at a hearing determining restitution does not waive his rights against self-incrimination in the event of a new trial;
- 7) The fact that restitution has been ordered as a part of a criminal proceeding shall not preclude a civil action against the defendant;
- 8) Upon conviction for any offense, the Court may order that court costs be paid;

9) In determining the nature and duration of a sentence, the Court shall consider the previous conduct of the defendant, the circumstances of the crime, whether the defendant represents a danger to the victim and/or the community, the extent of the defendant's resources and the needs of his dependents;

10) The penalties prescribed under Infractions, Parking Violations, and Class B, Class C, or Class D Offenses are maximum penalties and should be imposed only in extreme cases;

11) Other rehabilitation methods may be ordered in lieu of a fine or jail term, based on findings in a pre-sentence report.

4.65.010 - Sentencing – Fines- Installment Payments

If a convicted offender is unable to immediately pay a money fine or costs assessed, the Court shall allow him or her a reasonable period of time to pay the entire sum or allow the defendant to make reasonable installment payments to the Clerk of the Court at specified intervals until the entire sum is paid. If the offender defaults on such payments the Court may find him in contempt of court and imprison the offender accordingly.

4.65.015 - Sentencing – Probation – Conditions

Where a sentence of imprisonment has been imposed on a person convicted of a general crime the Court may, in its discretion, suspend the serving of such sentence and release the person on probation under any reasonable conditions deemed appropriate by the Court, provided, that the period of probation shall not exceed the maximum term of sentence set for such offense.

4.65.020 - Sentencing – Probation – Violation

Any person who violates the terms of probation may be required by the Court to serve the sentence originally imposed or such part of it as the Court may determine to be suitable, giving consideration to the circumstances, provided that such revocation of probation shall not be ordered without a hearing before the Court at which the offender shall have the opportunity to explain his or her actions.

4.65.025 - Sentencing – Parole – Conditions

Any person sentenced by the Court to detention or labor shall be eligible for parole at such time and under such reasonable conditions as set by the Court.

4.65.030 - Sentencing – Parole – Violation

Any person who violates the conditions of parole may be required by the Court to serve the original sentence; provided, that such revocation of parole shall not be ordered without a hearing before the Court at which the offender shall have the opportunity to explain his or her actions.

4.65.035 - Sentencing – Vacating Sentence

Upon a motion brought pursuant to the Rules of Criminal Procedure, the judge who imposed sentence may vacate any portion of any remaining sentence. A hearing on the motion shall be had in which all interested parties may present evidence or bring related facts to the attention of the Court.

CHAPTER 4.70 - HABEAS CORPUS

4.70.005 - Habeas Corpus – Who May Apply

Persons confined or otherwise detained or a person on their behalf may petition for a Writ of Habeas Corpus to inquire into the reasons for such imprisonment or restraint. If such reasons are found to be illegal, the confined or detained person shall be released from custody by order of the Court.

4.70.010 - Habeas Corpus – For Purpose of Bail

When a person is detained or in custody on any criminal charge for want of bail, the person is entitled to a writ of habeas corpus for the purpose of giving bail upon alleging facts in the petition. The petitioner need not allege that he or she is illegally confined.

4.70.015 - Habeas Corpus – How to Apply

Petition for a Writ is made by the person for whose relief it is intended, or by someone on his behalf, and must identify:

- 1) The person unlawfully confined, detained or restrained of liberty;
- 2) Each person known to be a party to the detainment or confinement; and
- 3) The location of the detention or confinement.

The petition must be verified by the oath or affirmation of the detained or confined person or the person making the petition on behalf of detained or confined person.

4.70.020 - Habeas Corpus – Issuance of Writ

When the Judge or Judicial Officer is satisfied that the Writ ought to be issued, it shall be issued without delay.

The Writ shall be directed to the custodian (jailor) of or individual or institution detaining the person on behalf of a valid order of the Stillaguamish Tribal Court.

The issue or issues to be determined upon return of the Writ must be stated either in the Writ or in an order attached to the Writ or in a copy of the petition attached to the Writ.

4.70.025 - Habeas Corpus – Service of Writ

The Writ must be served upon the person to whom it is directed and must be served in the same manner as a summons or subpoena.

4.70.030 - Habeas Corpus – Return of Service

The person upon whom the Writ is served must make a return to the Court within five (5) days of service and state in the Return:

- 1) Whether the named person is in custody, power or restraint, and the authority for so holding the person;
- 2) If the named person is no longer in his or her custody, power or restraint, the Return must state specifically to whom, at what time and place, for what cause and by what authority the person named in the Writ was released; and

3) The Return must be signed by the person to whom the Writ is directed and except when such person is a sworn public officer and makes such return in an official capacity, it must be verified while under oath.

4.70.035 - Habeas Corpus – Hearing on Return

The confined or detained person shall be brought before the Court at the next scheduled session or at a session called to hear the Writ.

The hearing must be held within two (2) days of the filing of the return and may be summary in nature.

Evidence may be produced and compelled as in criminal and civil actions.

4.70.040 - Habeas Corpus – Judgment

If the confined or detained person is in official custody, they may not be released on a Writ of Habeas Corpus for any technical defect in commitment not affecting their substantial rights.

Following the hearing, the Judge or Judicial Officer shall render judgment regarding the custody of the detained person as the facts and circumstances warrant and may order release from custody. An order of release shall be effective immediately.

CHAPTER 4.75 – RULES OF CONSTRUCTION

4.75.005 – Purpose

The purpose of the rules of construction is to provide guidelines to the Tribal Court in the interpretation of tribal ordinances, resolutions, regulations, policies and procedures. While recognizing that the Tribal Court is created pursuant to the authority granted to the Tribal Board of Directors, the Court shall exercise considerable independence in carrying out the letter and intent of the laws of the Stillaguamish Tribe of Indians.

4.75.010 – General Rules

The Tribal Court shall interpret tribal ordinances, resolutions, regulations, policies and procedures with their commonly understood meaning. Any ambiguities in said ordinances, resolutions, regulations, policies and/or procedures shall be resolved in the interest of justice. The Tribal Court shall not indulge in highly technical or legalistic interpretations of tribal ordinances, regulations, policies and procedures when such interpretation would defeat the overall legislative goals of the Stillaguamish Tribe.

Statement of Policy: Tribal ordinances which establish procedures for rulemaking by subordinate tribal agencies or officials or which establish procedures for the administration of tribal programs or activities shall not be constructed to create defenses or causes of action in Tribal Court except as provided in this section. Failure of any tribal official or agency to follow procedural guidelines of an administrative or rulemaking nature shall constitute a defense to a criminal or civil action only if such failure is clearly prejudicial to the rights of the defendant as provided below.

Rulemaking:

Notwithstanding the provision of any ordinance delegating to subordinate tribal agencies or officials authority to make rules or adopt regulations, the legislative power of the Stillaguamish Tribe shall always be exercised directly by the Tribal Board of Directors by motion or tribal resolution. Any rule or regulation adopted by the Tribal Board of Directors shall be presumed valid unless one of the following circumstances shall have occurred:

- 1) The rule or regulation was adopted at a Tribal Board of Directors meeting at which no quorum was present; or
- 2) The rule or regulation was adopted at a Tribal Board of Directors meeting which was not properly noticed; or
- 3) The rule or regulation was adopted at a Tribal Board of Directors meeting or a portion thereof, from which tribal members were excluded; or
- 4) The minutes of the Tribal Board of Directors meeting do not show that the rule or regulation was adopted by a majority vote of the Tribal Board of Directors members present; or
- 5) The minutes of the Tribal Board of Directors meeting do not describe the rule or regulation with sufficient clarity or detail to reasonably notify tribal members of its intent or effect.

In any Tribal Court proceeding, the above-described defects, and no others, shall provide grounds for attacking the validity of any rule or regulation adopted directly by the Tribal Board of Directors.

Administrative Procedures:

Tribal ordinances specifying custodial, processing, or record-keeping procedures to be followed by tribal officers or employees shall not create, per se, any causes of action or defenses in favor of any party to a Tribal Court proceeding. Such procedures are intended to establish management models to be followed by tribal officers and employees, and failure to adhere to these models shall not create any presumption that the procedures actually used were defective or invalid.

Evidence of failure to follow prescribed administrative procedures may be introduced in Tribal Court to prove a denial of due process, but only upon a showing of actual harm suffered. Lacking other Tribal Codes or court rules, the Tribal Court shall follow generally accepted procedures (e.g., those courts with concurrent jurisdictions), in the issuance of writs and formation of court policies and procedures so as to ensure continuity within the concurrent jurisdictions.

CHAPTER 5.05 - GENERAL PROVISIONS

5.05.05 - Title

Titles Five (5) through Eight (8) shall collectively be known and may be cited as the Stillaguamish Law and Order Code Crimes and Infractions Titles.

5.05.010 - Prior Chapters Repealed and Replaced

All prior versions, editions and sections listed above of the Law and Order Code are hereby repealed and replaced.

5.05.015 - Abrogation

The provisions of these chapters are intended to be consistent with all other sections of the Stillaguamish Tribal Code. Any conflict between the provisions of these chapters and existing Tribal law shall be resolved in favor of these chapters.

5.05.020 - Authority

This code is enacted under the inherent power and authority of the Stillaguamish Tribe of Indians as a sovereign nation and in accordance with the Tribe's Constitution and Bylaws.

5.05.025 - Jurisdiction

Except as prohibited by the Point Elliott Treaty of 1855 and United States Federal Law, the territorial jurisdiction of the Stillaguamish Tribe shall extend to all territory in which the Stillaguamish Tribe of Indians has a beneficial interest; including, but not limited to, all usual and accustomed fishing grounds and stations, any other lands or areas which may be acquired for, or by, or held in the name of the Stillaguamish Tribe of Indians, or any allotted lands held by Stillaguamish Indians.

The subject matter of jurisdiction of the Stillaguamish Tribal Court shall extend to all matters of law and equity whether civil or criminal in nature, arising under the laws of the Stillaguamish Tribe of Indians.

Criminal jurisdiction of the Stillaguamish Tribal Court shall extend to any person identified as an enrolled member of a federally recognized Indian tribe to the fullest extent permissible under applicable law.

Civil jurisdiction of the Stillaguamish Tribe of Indians shall extend to all persons to the fullest extent possible under applicable law.

5.05.030 - Non-Waiver of Sovereign Immunity

Nothing in this code shall be deemed to constitute a waiver by the Stillaguamish Tribe of Indians of its sovereignty, rights, powers, or privileges.

5.05.035 - Tribal Custom

Where helpful, to the fair and equitable disposition of civil infraction matters, the Tribal Court may inquire into the Tribal customs and usages of the Stillaguamish Tribe of Indians.

5.05.040 - Terms and Definitions

Where a term is not defined in this code, it shall be given its ordinary meaning, unless otherwise defined in this title. Terms used in this code shall have the following meaning except where the context clearly indicates otherwise:

“Tribe” means the Stillaguamish Tribe of Indians.

“Tribal member” means an enrolled member of the Stillaguamish Tribe.

“Indian” and “Native American” means an enrolled member of any tribe recognized by the United States Government.

“Court,” “The Court,” and “Tribal Court” all refer to the Stillaguamish Tribal Court.

“Authorized emergency vehicle” means any authorized vehicle belonging to a law enforcement agency, fire department, or ambulance service whose occupants are engaged in their lawful duties, and has markings and lighting designating it as belonging to such an agency.

Any reference to “he,” “him,” or other masculine terms shall include male and female persons. Any reference to a singular term shall include the plural.

“Acted” includes, where relevant, omitted to act.

“Actor” includes, where relevant, a person failing to act.

“Bodily Harm,” “Bodily Injury,” or “Physical Injury” means physical pain or injury, illness, or an impairment of physical condition.

“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 a fracture of any bodily part.

“Great Bodily Harm” means bodily injury which creates a probability of death, or which causes significant serious permanent disfigurement, or which causes a significant permanent loss or impairment of the function of any bodily part or organ.

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

“Culpability” shall mean guilt or responsibility to any degree.

“Dangerous Weapon” shall include, but not be limited to sling shot, sand club, metal knuckles, spring blade or gravity knife, butterfly knife, dagger, dirk, pistol, throwing stars, nun-chu-ka sticks, any air gun or BB gun, a firearm silencing device, gun of any type, or any other weapon capable of producing bodily harm.

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

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

“Judge” means every judicial officer, authorized alone or with others, to hold or preside over a court.

“Mens Rea” means state of mind, as required to form intent to commit any civil or criminal offense.

“Non-native” means any person who is not an enrolled member of a Federally-Recognized Indian Tribe.

“Possession” means to have in one's actual physical control, or to have both the power and ability to exercise control even though the object is not under his direct physical control.

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

“Prosecutor” means the person engaged by the Stillaguamish Tribe to represent the Tribe in Court proceedings.

“Vehicle” means a “motor vehicle” as defined in the traffic codes; any aircraft; or any vessel equipped for propulsion by mechanical means or by sail.

“Written Instrument” means any paper, document, or other instrument containing written or printed matter or its equivalent or any access device, token, stamp, seal, badge, trademark, or other evidence or symbol of value, right, privilege, or identification.

5.05.045 – Mens Rea

1) Categories of mens rea:

a) INTENT. A person acts with intent or intentionally when he acts with the objective or purpose to accomplish a result which constitutes an offense.

b) KNOWLEDGE. A person knows or acts knowingly or with knowledge when:

1) he is aware of a fact, facts, or circumstances or result described by a statute defining an offense; or

2) he has information which would lead a reasonable person in the same situation to believe that facts exist which facts are described by a statute defining an offense.

c) RECKLESSNESS. A person is reckless or acts recklessly when he knows of and disregards a substantial risk that a wrongful act may occur and his 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 or acts with criminal negligence when he fails to be aware of a substantial risk that a wrongful act may occur and his failure to be aware of such substantial risk constitutes a gross deviation from the standard of care that a reasonable person would exercise in the same situation.

2) Substitutes for Criminal negligence, Recklessness, and Knowledge:

a) When a statute provides that criminal negligence suffices to establish an element of an offense, such element also is established if a person acts intentionally, knowingly, or recklessly.

b) When recklessness suffices to establish an element, such element also is established if a person acts intentionally or knowingly.

c) When acting knowingly suffices to establish an element, such element also is established if a person acts intentionally.

3) Requirement of Willfulness Satisfied by Acting Knowingly:

a) A requirement that an offense be committed willfully is satisfied if a person acts knowingly with respect to the material elements of the offense, unless a purpose to impose further requirements plainly appears.

5.05.050 - Capacity

Children under the age of eight (8) years are considered incapable of forming the levels of culpability required for committing crimes and are, therefore, immune from prosecution.

CHAPTER 5.10 - SEVERABILITY AND AMENDMENTS

5.10.005 - Severability

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

5.10.010 - Amendments, Repeal, Modifications

The Stillaguamish Tribal Council (Board of Directors) reserves the right to amend, repeal, or modify this code or any part thereof at any time.

CHAPTER 5.15 - SCHEDULE OF PENALTIES

5.15.005 - Sentencing Guidelines

Factors that the Court shall take into consideration when determining the character and duration of a convicted offender's sentence are: whether the offender has previously appeared before the Court as a criminal defendant, and if so, whether the offender appears to the Court to be establishing a pattern of criminal conduct; whether the offender has previously been found guilty of a criminal offense before a court of any other jurisdiction; whether the immediate offense was of a willful or malicious nature; whether the offender has attempted to make amends, and if so, the extent of the offender's resources and the needs of his dependents, if any, and the needs of any victims.

For offenders who have previously been found guilty of the same or like offense, the sentence the Court imposes shall be more severe than the previous sentence(s) ordered for that person.

5.15.010 - Tribal Custom

Where helpful, to the fair and equitable disposition of civil infraction matters, the Tribal Court may inquire into the Tribal customs and usages of the Stillaguamish Tribe of Indians.

5.15.015 - Parking Violation Penalties

Except where otherwise provided, Parking Violations are punishable as follows:

- 1) Violations of Chapter 7.05 are punishable by a fine of \$35 EXCEPT:
- 2) Violations of disabled parking are punishable by a fine of \$350.

Violator's vehicles may be impounded at the owner's expense if the violation is not remedied in a reasonable amount of time not to exceed 24 hours.

5.15.020

RESERVED

5.15.025 - Infraction Classifications and Penalties

Except where otherwise provided, Infractions will be classified as Level 1 Infractions through Level 4 Infractions and are punishable as follows:

1) Violation of a Level 1 Infraction is punishable by a fine of not less than \$750 and not more than \$1,000.

2) Violation of a Level 2 Infraction is punishable by a fine of not less than \$500 and not more than \$750.

3) Violation of a Level 3 Infraction is punishable by a fine of not less than \$250 and not more than \$500.

4) Violation of a Level 4 Infraction is punishable by a fine of not less than \$100 and not more than \$250.

5.15.030 - Criminal Code Violation Classifications and Penalties

Except where otherwise provided, Violations outlined in Chapter 7.15 and Title 8 will be classified as Class A, Class B, Class C, or Class D and are punishable as follows:

1) Class A: Not more than one (1) year in jail and/or \$5000 fine and not less than the maximum Class B penalty. Community service may be substituted for not more than one half of the fine imposed.

2) Class B: Not more than six (6) months in jail and/or \$2500 fine and not less than the maximum Class C penalty. Community service may be substituted for not more than one half of the fine imposed.

3) Class C: Not more than three (3) months in jail and/or \$750 fine and not less than the maximum Class D penalty. Community service may be substituted for not more than one half of the fine imposed.

4) Class D: Not more than one (1) month in jail and/or \$250 fine. Community service may be substituted for not more than one half of the fine imposed.

5.15.040 - Restitution

The Court may order restitution to be paid through the payment of monetary damages, the surrender of property, or the performance of any other act for the benefit of the injured party. Such restitution shall be considered to be in addition to any other penalty based on the class of the offense committed and handed down by the Court.

5.15.045 - Costs and Attorney Fees

Each party to a civil infraction case is responsible for costs incurred by that party. No costs or attorney fees may be awarded to either party in a civil infraction case.

5.15.050 – Civil Infraction Procedures

The Court shall establish procedures for the adjudication of civil infractions to include reasonable time periods for the defendant to respond to an infraction notice, when collection actions shall commence, and the addition of reasonable collection fees.

5.15.055 – Responsibility to Pay Fines and Fees

Any person who has been found guilty of an offense or infraction within the jurisdiction of the Stillaguamish Tribe shall be expected to pay all fines or fees as adjudicated by the Court.

Therefore:

1) Any person who is not a tribal member, employee, or non-tribal member legally living upon the lands of the Stillaguamish Tribe may be excluded from said lands until all fines and fees are satisfied; and

2) The owner(s) of a vehicle may also be held financially responsible for all judgments made by the Court when their vehicle was used to commit a violation of tribal law.

CHAPTER 5.20 - JUVENILE JUSTICE

5.20.005 - Notice

In all proceedings in the Stillaguamish Tribal Court in which a juvenile is a defendant under this title, notice of the proceedings shall be given to the minor and his parent, guardian, or custodian and to their attorney or spokesperson, if any, within the time limits prescribed.

5.20.010 - Rights of Minors

Minors appearing before the Stillaguamish Tribal Court shall have all the legal rights that adults have under the same circumstances as well as any additional legal protections which may be provided under the laws of the Stillaguamish Tribe of Indians, provided that, a minor has no right to a jury trial.

5.20.015 - Capacity

As outlined in Chapter 5.05 – General Provisions, children under the age of eight (8) years are considered incapable of forming the levels of culpability required for committing crimes and are, therefore, immune from prosecution.

5.20.020 - Hearings to be Closed – Parental Presence Required

In all proceedings in the Stillaguamish Tribal Court, under this title, and in all proceedings in which a juvenile is a defendant, hearings shall be closed to all persons other than the parties, their counsel, and witnesses whose presence is allowed by the Court. The juvenile's parent, guardian, or custodian shall be present at all such hearings unless his presence is waived by the Court upon a showing of good cause.

Court and law enforcement files on minors shall be confidential.

Records must be made available only to:

- 1) The minor and his spokesperson;
- 2) The minor's parent, custodian, or guardian;
- 3) The Tribe's prosecutor; and
- 4) The Tribe's counselors.

However, in the event a juvenile is required by law to be registered with the law enforcement official(s) of any jurisdiction as a result of being convicted of any sex offense, then this section shall not apply.

5.20.025 - Sentencing of Juvenile Defendants

In sentencing a defendant who is under the age of eighteen (18) years, the Court may, but is not required to, impose one or more of the following sanctions in lieu of all or part of the fine and/or jail time specified for a particular offense:

- 1) Mandatory school attendance with proof of attendance and submission of grades to the Court on a regular schedule;
- 2) Restitution;
- 3) Probation;
- 4) Community service hours if agreed to by the Prosecutor;
- 5) Individual and/or family counseling;
- 6) Evaluation and treatment, including residential treatment for alcohol abuse, other substance abuse, or mental illness; or
- 7) Any other alternative which to the Court may seem just.

The burden of the sentence should fall primarily on the juvenile rather than on the parent, but the parent, guardian, or custodian shall be required by the Court to supervise the juvenile and to see that the sentence is carried out. If the Court finds, in the course of proceedings against a juvenile, that he is in need of care, the Court shall have broad powers to make orders for protection of the juvenile and to assist the family to provide better care for the juvenile.

5.20.030 - Curfew

It is unlawful for any person under the age of eighteen (18) years to be in any public place of the Stillaguamish Tribe between the hours specified below:

<u>Age</u>	<u>Day</u>	<u>Hours</u>
14 & Under	School Night	9 p.m. to 6 a.m.
	Non-School Night	10 p.m. to 6 a.m.
15 – 17	School Night	10 p.m. to 6 a.m.
	Non-School Night	Midnight to 6 a.m.

A person under the age of eighteen (18) years is not in violation of curfew:

- 1) when accompanied by a parent, legal guardian, or custodian; OR
- 2) when going to or coming from employment or a regularly scheduled Tribal, school, or religious function and is proceeding directly to or directly from home by the nearest route.

“Non-school night” means Friday and Saturday nights, or any weekday night when school will not be in session the following day.

“School night” means Sunday through Thursday nights, when school will be in session the following day.

“Public place” includes streets, roadways, paths, and parks on or within the jurisdiction of the Stillaguamish Tribe.

A minor violating curfew may be taken into custody by Tribal law enforcement. If they are unable to contact a parent, legal guardian, or custodian, or if such persons are unable or unwilling to provide the necessary care and supervision for the minor, law enforcement may place the minor in juvenile detention or emergency care.

Violating Curfew is a Class D offense.

A court appearance is mandatory for curfew violations. The minor must be accompanied by a parent, legal guardian, or custodian.

CHAPTER 6.05 – GENERAL CIVIL INFRACTIONS

6.05.005 - Abandoned Iceboxes, Refrigerators, or Other Containers

Any person who has on his premises an abandoned icebox, refrigerator, or other container not in active use, the door to which has a latch or other self-locking device, and which cannot be readily opened from the inside, shall be guilty of a Level 1 Infraction.

6.05.010 - Allowing a Violation of Curfew

Any person who is a parent, legal guardian, or custodian of a minor who has violated curfew at a time when such person knew, or in the exercise of parental responsibility should have known, that the minor was committing a curfew offense and did not take appropriate steps to prevent the offense shall be guilty of a Level 1 Infraction.

6.05.015 - Failure to Send Children to School

Any person who, without good cause, fails to send his children or any minor under his care to school, when such child(ren) is at least five (5) years of age but is less than sixteen (16) years of age and has not completed the tenth (10th) grade, shall be guilty of a Level 1 Infraction.

6.05.020 – Minor in Possession of Tobacco Products

Any person who is a minor under the age of eighteen (18) years and is found to be in possession of any product containing tobacco, including, but not limited to, cigars, cigarettes, pipe tobacco, loose tobacco for producing cigarettes, or snuff or chewing tobacco shall be guilty of a Level 4 Infraction.

It shall be a defense that the tobacco in question was being used for ceremonial purposes and the burden of proof shall rest with the defendant.

Tobacco products found in the possession of a minor are contraband and therefore no property rights exist in them, and they shall be seized, documented, and then destroyed.

6.05.025 – Furnishing Tobacco Products to Minors

Repealed by resolution 2008/060 and replaced with 3.06.314 on April 30, 2006

6.05.027 – Smoking in Prohibited Areas

Any person who smokes inside a tribal government or medical facility or inside a building owned by the tribal government, or within fifteen (15) feet of any public entrance to such building, or outside a designated smoking area established by the management at such a building shall be guilty of a Level 4 infraction.

Any person who smokes within twenty (20) feet of a fireworks stand or other fireworks building shall be guilty of a Level 1 infraction.

6.05.030 - Discharging/Exploding Fireworks without a Permit

Fireworks Use Permits shall be issued by the Stillaguamish Tribal Police to eligible households within the jurisdiction of the Stillaguamish Tribe. Permits shall not require a fee and will be valid for a period of one (1) year or until revoked. To be eligible, a household must have

at least one member in residence who is an enrolled Native American of any Federally Recognized Tribe. The address of the household and the eligible member's name shall be listed on the permit. Once the permit is issued, any member of the household or their guests may use fireworks within the jurisdiction of the Stillaguamish Tribe. Members of one household within the Tribal jurisdiction shall not use fireworks as guests of another household, but shall be required to obtain their own permit. Guests of one permitted household shall not use fireworks as guests of another household. Juveniles under the age of thirteen (13) using fireworks must be supervised by an adult acting under authority of the permit issued to the juvenile's household. No adult shall allow a juvenile under the age of thirteen (13) to use fireworks without supervision.

Violation of this section is a Level 1 Infraction punishable of a fine of not more than \$500.

Any fireworks found in possession of the violator shall be confiscated by the Tribal Police for later destruction. Violators' fireworks use privileges shall be temporarily suspended until the matter is resolved in Tribal Court. Violators convicted of violating this section shall have their fireworks use privileges revoked for a period not to exceed two (2) years.

6.05.035 - Littering

Any person who deposits, discards, or leaves any material in, adjacent to, or on lands, waters, roads, or other public places within the jurisdiction of the Stillaguamish tribe of Indians not designated for such discarding of refuse, or who willfully deposits or discards such refuse within or on the lands or premises belonging to another person without permission of the owner, or who permits another to do one of the acts described in this section is guilty of a Level 4 Infraction. However, if the material(s) deposited or discarded weighs one pound or more, or is an animal living or dead, or is considered toxic, or is burning, or is a vehicle or any part thereof, it shall be a Level 1 infraction.

6.05.040 - Uncontrolled Animals

Any person who allows a dog or other animal he owns or has custody of to roam at large or wander through developed areas within the Stillaguamish Tribal jurisdiction shall be guilty of a Level 2 Infraction.

If the owner of the animal is not available to take custody of the animal, the animal may be impounded by local animal control authorities at the request of the Stillaguamish Tribal Police. The costs of such impoundment shall be the responsibility of the animal's owner.

The owner of the animal shall be responsible for costs related to any damage to persons, property, or other animals the animal may have caused.

6.05.045 - Unlawful Removal of Navigational Markers or Landmarks

Any person who removes, alters, or destroys any landmark or navigational mark put in place by either the Stillaguamish Tribe or the United States shall be guilty of a Level 1 Infraction.

6.05.050 - RESERVED

6.05.055 – Unlawful Disclosure of Tribal Government or Privileged Information

Any person who, while in the employ of the Stillaguamish Tribe of Indians and without lawful authority, discloses, or attempts to disclose, any information clearly marked or known, or

should have been known, to be confidential in nature, shall be guilty of an infraction punishable by a fine of not more than \$1000 and not less than \$500.

Any person who is an enrolled member of the Stillaguamish Tribe and has been entrusted or provided with any information clearly marked or known, or should have been known, to be confidential in nature as defined in this section, and without lawful authority, discloses, or attempts to disclose such information, shall be guilty of an infraction punishable by a fine of not more than \$500 and not less than \$250.

For purposes of this section:

"Discloses or attempts to disclose" shall include any means of disclosure including, but not limited to oral, written, telephonic, or any electronic communications system, made to any other person not authorized by tribal authorities to receive the disclosed information.

"Person in the employ of the Stillaguamish Tribe" shall include all persons elected to or employed by the tribal government, employed by the Stillaguamish Tribe in any position, or any unpaid volunteers, contractors, or sub-contractors whose services are paid for by the Stillaguamish Tribe, and the members of any temporary committee appointed by the tribal government.

"Clearly marked" means any information, written or electronically stored or transferred, that includes a warning advising of its confidential nature. This warning may be by the stamping of the document with a "confidential" logo, or by a warning written and included within the text.

"Known or should have known" includes all information that a person has been informed of its confidential nature by the tribal board of directors (council), the executive director, or a supervisor, or is commonly known to be of a confidential nature such as medical or personal information, or was removed from or viewed in another person's files, desk, computer, or other work area without authority. This also includes any information that, by its mere nature, would cause a person to reasonably believe would be potentially damaging to the tribe's political or economic endeavors if released and that the person making the disclosure became aware of the information through his or her employment by the tribe and did not have authority to disclose it.

Any tribal manager, supervisor, authorized employee, or the executive director may designate information to be confidential in nature. The tribal board of directors (council), while in session, may also classify or override the decision to classify the information as confidential except that which is so designated under tribal, state, or federal law.

A conviction of a violation of this section does not relieve a person from other civil actions resulting in damages done to the tribal government or tribally-owned or controlled business resulting from the disclosure of confidential information.

CHAPTER 7.05 - PARKING VIOLATIONS

7.05.005 - Application of Chapter, Permission Necessary to Enter Upon Private Lands

The provisions of this chapter apply to the operation of vehicles on any road, street, dirt path, or any other area accessible to vehicles within the jurisdiction of the Stillaguamish Tribe of Indians.

Nothing in this chapter grants to any person the right or authority to enter upon private property without permission of the property owner.

7.05.010 - Notice of Parking Infractions – Issuance

If any motor vehicle without a driver is found parked, standing, or stopped in violation of this chapter, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a notice of parking infraction.

7.05.015 - Unlicensed Drivers Subject to All Provisions

Any person who operates a motor vehicle on the lands or roads of the Stillaguamish Tribe without a valid operator's license or instruction permit shall be subject to all of the provisions of this chapter to the same extent as a person who is licensed.

7.05.020 - Presumption regarding Stopped, Standing, or Parked Vehicles

In any parking violation case, proof that the particular vehicle described in the notice of infraction was stopping, standing, or parking in violation of any provision of this title or an equivalent resolution, together with proof that the person named in the notice of traffic infraction was at the time of the violation the registered owner of the vehicle, shall constitute a prima facie presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred.

The foregoing stated presumption shall apply only when the procedure prescribed in 7.05.010 has been followed.

7.05.025 - Costs and Attorney Fees

Each party to a parking infraction case is responsible for costs incurred by that party. No costs or attorney fees may be awarded to either party in a traffic infraction case.

7.05.030 - Immunity, Defenses

This title shall not apply to the driver of a vehicle that is disabled in such a manner and to such extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position. The driver shall nonetheless arrange for the prompt removal of the vehicle in a reasonable amount of time not to exceed 24 hours.

This title shall not apply to the driver of a public transit vehicle who temporarily stops the vehicle upon the roadway for the purpose of and while actually engaged in receiving or discharging passengers.

This title shall not apply to the driver of a solid waste collection company or recycling company vehicle who temporarily stops the vehicle for the purpose of and while actually engaged in the collection of solid waste, or recyclables, or both.

This title shall not apply to the driver of an authorized emergency vehicle who is engaged in his lawful duties.

This title shall not apply to the driver of a vehicle owned by a utility company while engaged in the performance of his duties.

It is a defense to this title that the driver's actions were necessary to avoid conflict with other traffic or were in compliance with law or the directions of a police officer, road construction crew flagger, or traffic control device.

It is a defense that the driver of a vehicle in violation of this chapter was attending a gathering, function, or event approved by the Tribe.

7.05.035 - Parked on Sidewalk

No person shall stop, stand, or park a vehicle on a sidewalk or street-planting strip.

7.05.040 - Parked Within Intersection

No person shall stop, stand, or park a vehicle within an intersection.

7.05.045 - Parked on Crosswalk

No person shall stop, stand, or park a vehicle on a crosswalk.

7.05.050 - No Parking Zone

No person shall stop, stand, or park a vehicle in an area that is designated as a no-parking zone and is marked as such.

7.05.055 – (Formerly “Parked out of Stall” repealed by resolution #2005/003)

7.05.060 - Parked Within 15 Feet of Fire Hydrant

No person shall stop, stand, or park a vehicle within 15 feet of a fire hydrant.

7.05.065 - Blocking Roadway

No person shall stop, stand, or park a vehicle on the roadway unless the vehicle is parallel to the side of the roadway and the vehicle's wheels are no more than 12 inches away from the curb or side of the roadway.

7.05.070 - Blocking Driveway

No person shall stop, stand, or park a vehicle in front of a driveway in such a manner that denies entrance to or exit from the driveway.

7.05.075 - Handicapped or Disabled Parking – Violation ¹

¹ Section underlined modified by Board of Directors on June 20, 2007 by resolution # 2007/083.

No person shall stop, stand, or park a vehicle in an area or space designated as parking for handicapped or disabled persons unless that person's vehicle displays a lawfully utilized and valid handicapped license plate or placard, issued by any state or recognized Tribal authority.

Violations of this section shall be punished as an infraction as prescribed in 5.15.015.

CHAPTER 7.10 - TRAFFIC INFRACTIONS

7.10.005 - Application of Chapter, Permission Necessary to Enter Upon Private Lands

The provisions of this chapter apply to the operation of vehicles on any road, street, dirt path, or any other area accessible to vehicles within the jurisdiction of the Stillaguamish Tribe of Indians.

Nothing in this chapter grants to any person the right or authority to enter upon private property, including Tribally-owned property, without permission of the property owner.

7.10.010 - Notice of Traffic Infraction – Issuance

A law enforcement officer has the authority to issue a notice of traffic infraction:

- 1) when the infraction is committed in the officer's presence;
- 2) when the officer is acting upon the request of a law enforcement officer in whose
- 3) presence the traffic infraction was committed; OR
- 4) if an officer investigating the scene of a motor vehicle accident has reasonable cause to believe the driver of a motor vehicle involved in the accident has committed an infraction.

The Tribal Court may issue a notice of traffic infraction upon receipt of a written statement of the officer that there is reasonable cause to believe that an infraction was committed.

7.10.015 - Costs and Attorney Fees

Each party to a traffic infraction case is responsible for costs incurred by that party. No costs or attorney fees may be awarded to either party in a traffic infraction case.

7.10.020 - Jurisdiction of Courts

All violations of Stillaguamish Tribal law, ordinance, regulation, or resolution designated as traffic infractions may be heard and determined by the Tribal Court.

7.10.025 - Unlicensed Drivers Subject to All Provisions

Any person who operates a motor vehicle without a valid operator's license or instruction permit shall be subject to all of the provisions of this chapter to the same extent as a person who is licensed.

7.10.030 - Traffic Laws Apply to Persons Riding Bicycles

Every person riding a bicycle upon a roadway shall be granted all of the rights and is subject to all of the duties applicable to the driver of a vehicle by this chapter except as to those provisions of this chapter which by their nature can have no application.

7.10.035 - Authorized Emergency Vehicle

The driver of an authorized emergency vehicle emergency, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions stated. The driver of an authorized emergency vehicle may:

- 1) park or stand, irrespective of the provisions of this or any other chapter;
- 2) proceed past a red or stop signal or stop sign but only after slowing down as may be necessary for safe operation;
- 3) exceed the maximum speed limits so long as he does not endanger life or property;
- 4) disregard regulations governing direction of movement or turning in specific directions.

The exemptions granted to an authorized emergency vehicle shall apply only when the vehicle is making use of visual signals, except that:

- 1) an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red or blue light visible from in front of the vehicle;
- 2) authorized emergency vehicles shall use audible signals when necessary to warn others of the emergency nature of the situation, but in no case shall they be required to use audible signals while parked or standing.

The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall these provisions protect the driver from the consequences of his reckless disregard for the safety of others.

7.10.040 - Vehicle License Required

Any person who operates a motor vehicle:

- 1) without valid vehicle license plates or other required registration numbers, with current expiration tabs displayed, issued by any Tribal, state, federal, or foreign department of licensing and such plates or numbers are not affixed to the front and rear of the vehicle or as prescribed by the issuing authority and are kept clean, OR
- 2) without a valid temporary permit or trip permit issued by any Tribal, state, federal, or foreign department of licensing and such permit is not affixed to the left interior side of the rear window shall be guilty of a Level 3 Infraction punishable by a fine of \$500.

Upon determining that a person operating a motor vehicle with vehicle license that has been expired in excess of ninety (90) days, a law enforcement officer may immediately have the vehicle towed for impound. The vehicle may be released after the owner or driver pays the reasonable costs of the impoundment and storage.

The officer shall provide the driver or owner written or oral notice of his right to a hearing in Tribal Court to contest the validity of the impoundment or any charges related to towing. A request for a hearing must be made to the court clerk within ten (10) days of the impoundment or the driver/owner will be deemed to have waived his right to such hearing. The court will notify the driver/owner of the hearing date. The court will then authorize release of the vehicle at the owner's expense pending the hearing.

7.10.045 - License Registration Required

Any person who operates a motor vehicle without carrying a valid, signed vehicle registration issued by any Tribal, state, federal, or foreign department of licensing, in the vehicle shall be guilty of a Level 4 Infraction.

7.10.050 - No Driver's License on Person/Fail to Display License to Officer

Any person who drives a motor vehicle and:

- 1) does not have his valid operator's license on his person, OR
- 2) fails to display his operator's license when requested to do so by a law enforcement officer shall be guilty of a Level 4 Infraction.

7.10.055 - Operate Vehicle Without Liability Insurance

Any person who operates a motor vehicle:

- 1) without being insured under a motor vehicle liability policy with liability limits of at least the amounts provided in Washington RCW 46.29.090, OR
- 2) without being self-insured as provided in Washington RCW 46.29.630, OR
- 3) without being covered by a certificate of deposit in conformance with Washington RCW 46.29.550, OR
- 4) without being covered by a liability bond of at least the amounts provided in Washington RCW 46.29.090, AND
- 5) is not carrying written proof of said liability insurance in the vehicle at the time of operation or fails to provide written proof when requested to do so by a law enforcement officer shall be guilty of a Level 3 Infraction punishable by a fine of not more than \$500.

A person accused of violating this section may petition the Court to dismiss the charge provided that he provides the Court with written documentation that he was, in fact, insured at the time of the violation. The Court may, however, assess Court administrative costs of twenty-five dollars (\$25) at the time of dismissal.

7.10.060 -

Section amended by resolution # 2008/041:

1) Any person who operates any motor vehicle or motor-driven cycle without having a valid driver's license with proper endorsements and/or Class certification (e.g. CDL, motorcycle endorsements etc.) to enable the holder to drive such a vehicle shall be guilty of a Level 4 Infraction.

2) Any person aged sixteen (16) years or older who holds a valid driver's license of any class issued by the state of his residence may operate a moped without first obtaining a special endorsement.

3) Persons who are employed by the Tribe or a tribally owned business are exempted from the requirement of this section provided that the vehicle being operated is owned or operated at the direction of the Tribe or its business and only operated upon Tribal lands.

7.10.065 - Possession of Cancelled, Revoked, Suspended License or Identocard

Any person who displays or causes or permits to be displayed or have in his possession any cancelled, revoked, or suspended driver's license or identocard shall be guilty of a Level 4 Infraction.

7.10.070 - Allow Unauthorized Person to Drive

Any person who shall cause, authorize, or knowingly permit:

- 1) any child or ward under the age of eighteen (18) years who is not legally authorized to drive, OR
- 2) any person who is not legally authorized to drive to operate a motor vehicle owned by him or under his control shall be guilty of a Level 4 Infraction.

7.10.075 - Drive on Wrong Side of Road or Street

Except when passing another vehicle traveling in the same direction or to avoid an obstruction on his side of the roadway, any person who fails to drive his vehicle on the right half of the roadway shall be guilty of a Level 3 Infraction, OR

Any person who, when driving into and through a circular cul-de-sac with or without a center island, fails to stay to the right shall be guilty of a Level 4 Infraction.

7.10.080 - Improper Lane Usage

Whenever a roadway has been divided into two or more clearly marked lanes for traffic, any person who fails to drive his vehicle as nearly as practicable entirely within a single lane unless, turning, parking, or passing shall be guilty of a Level 4 Infraction.

7.10.085 - Following Too Closely

Any person who drives his vehicle behind another vehicle more closely than is reasonable and prudent, not having due regard for the speed of the vehicles and the traffic upon and condition of the roadway shall be guilty of a Level 4 Infraction.

7.10.090 - Fail to Yield Right of Way - Intersection

When two vehicles approach or enter an intersection from different streets or roadways at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right. Violation of this provision is a Level 4 Infraction.

7.10.095 - Fail to Yield Right of Way – Vehicle Turning Left

Any driver of a vehicle intending to turn left within an intersection or onto a side road, driveway, or alley who fails to yield the right of way to any vehicle approaching from the opposite direction shall be guilty of a Level 4 Infraction.

7.10.100 - Fail to Yield Right of Way – From Private Way or Driveway

Any person who drives his vehicle from a private way or driveway onto a public road, street, or highway without yielding to traffic on the public road, street, or highway shall be guilty of a Level 4 Infraction.

7.10.105 - Fail to Yield – Road Construction

Any driver of a vehicle who fails to yield to any authorized vehicle obviously and actually engaged in work upon a public road, street, or highway and displaying flashing amber lights or any pedestrian actually engaged in work shall be guilty of a Level 4 Infraction.

7.10.110 - Fail to Yield Right of Way – Emergency Vehicles

Any person who, upon the approach of an authorized emergency vehicle making use of audible and visual signals, or of a police vehicle properly and lawfully making use of an audible or visual signal only, fails to immediately yield the right of way and by immediately driving to and stopping his vehicle at a position parallel to and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection shall be guilty of a Level 3 Infraction.

7.10.115 - Fail to Obey Stop or Yield Sign

Except when directed to proceed by a duly authorized flagger, police officer, or firefighter:

1) any person who fails to stop for a stop sign before entering an intersection by bringing his vehicle to a complete stop at a clearly marked stop line, or if none, at the near line of a marked crosswalk, or if none, at a point even with the stop sign itself, OR

2) any person who fails to yield at a yield sign for other traffic before entering an intersection by slowing his vehicle to a speed reasonable for existing conditions, or bring his vehicle to a stop if necessary at a clearly marked stop line, or if none, at the near line of the crosswalk, or if none, at a point even with the yield sign shall be guilty of a Level 4 Infraction.

7.10.116 – Fail to Yield Right of Way to Pedestrians (Amended by resolution # 2007/059)

Any vehicle that approaches and fails to stop and remained stopped while a pedestrian is crossing or attempting to cross any street or parking area or shall attempt to overtake or pass another vehicle that has stopped for a pedestrian, shall be guilty of a level 2 infraction. The fact the pedestrian was not in a marked crosswalk shall not be a defense for failing to yield the right of way to pedestrians.

7.10.117 – Fail to Obey Traffic Control Device or Sign

Any pedestrian, bicyclist, or person operating a motor vehicle who fails to obey all traffic control devices placed to control the movement or direction of traffic as authorized by the Stillaguamish Tribe within its jurisdiction shall be guilty of a Level 4 Infraction.

"Traffic Control Device" shall mean any permanently or temporarily placed sign, marking, or indicator commonly used to control the movement of vehicles.

It shall be a defense to this section that the defendant's actions were at the direction of a law enforcement officer or authorized flagger.

7.10.120 - Improper Turn

Any person driving a vehicle and intending to turn shall do as follows:

Right Turns – Both the approach for the right turn and the right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

Left Turns – The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the vehicle. Whenever practicable, the left turn shall be made to the left of the center of the intersection and so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as the vehicle on the roadway being entered.

Violation of this provision is a Level 4 Infraction.

7.10.125 - Fail to Give Signal

Any driver who fails to give signal by signal lamps or arm signals prior to making a turn or change of lanes or other movement upon the roadway shall be guilty of a Level 4 Infraction.

Arm signals may only be used during daylight hours. Operators of bicycles must use arm signals.

7.10.130 - Violation of School Bus Stop Sign

Any driver who fails to stop for a school bus stop sign or when a school bus is operating its flashing red warning lights during the reception or discharge of passengers shall be guilty of a Level 3 Infraction punishable by a fine of not more than \$500.

7.10.135 - Excess Speed

Any driver who exceeds the maximum speed limits, including recommended speeds for hazardous areas or special speed zones, shall be guilty of a Level 4 Infraction.

The fine schedule for Excess Speed is as follows:

- 1) One (1) to ten (10) miles per hour above the maximum limit: \$100 fine.
- 2) Eleven (11) to twenty (20) miles per hour above the maximum limit: \$250 fine.

Twenty-one (21) or more miles per hour above the maximum limit shall be prima facie evidence of Negligent Driving (civil) and shall be charged as such.

7.10.140 - Alcoholic Beverages – Drinking, Disguising, or Open Container in Vehicle

Any person who is a driver or passenger of a moving motor vehicle who:

- 1) drinks any alcoholic beverage, OR
- 2) has in his possession a bottle, can, or other receptacle containing an alcoholic beverage if the container has been opened or its seal broken or the contents partially removed, OR
- 3) incorrectly labels the original container of an alcoholic beverage and then violates subsections (1) or (2) of this section, OR
- 4) places an alcoholic beverage in a container specifically labeled by the manufacturer of the container as containing a nonalcoholic beverage and then violates subsections (1) or (2) of this section shall be guilty of a Level 2 Infraction.

7.10.145 - Operate Bicycle While Under the Influence of Intoxicating Liquor and/or Drugs

Any person who operates a bicycle upon roadways within the jurisdiction of the Stillaguamish Tribe and appears to be under the influence of intoxicating liquor and/or drugs shall be guilty of a Level 3 Infraction.

A law enforcement officer may impound the violator's bicycle if the officer determines impoundment is necessary to reduce a threat to public safety and there are no other reasonable alternatives to impoundment. The violator will be given notice of when and where the impounded bicycle may be reclaimed. The bicycle will be returned pursuant to the violator settling the infraction in Tribal Court at no cost. If the bicycle is not reclaimed within 30 days or the violator fails to appear in Tribal Court to settle the infraction, the bicycle shall be forfeited to the Tribal police department. The bicycle shall then be subject to sale or disposal consistent with agency procedures.

7.10.150 - Ride Motorcycle without Helmet

Any person who operates a motorcycle, motor-driven cycle, or moped without wearing upon his head a protective helmet of a type conforming to the rules adopted by the Washington State Patrol, or who carries a passenger who is not wearing such helmet, shall be guilty of a Level 3 Infraction.

7.10.155 - Allow Child to Ride Bicycle without Helmet

Any person responsible for a child who allows that child under the age of sixteen (16) to operate a bicycle without wearing upon his head a protective helmet of a type conforming to federal or state safety standards shall be guilty of a Level 3 Infraction.

7.10.160 - Leaving Vehicle Unattended

Any person who leaves a motor vehicle unattended without first stopping the engine, locking the ignition, removing the key, and effectively setting the brake, and, when upon any perceptible grade, turning the front wheels to the curb or side of the roadway shall be guilty of a Level 4 Infraction.

Any person who has failed to comply with this section and whose vehicle has become set in motion and involved in a collision shall comply with collision reporting requirements as outlined in Chapter 7.15.

7.10.165 - Limitation on Backing

Any driver who backs a vehicle and said movement is determined to be unsafe or interferes with other traffic shall be guilty of a Level 4 Infraction.

7.10.170 - Driving on Sidewalk Prohibited

Any person who drives any vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway shall be guilty of a Level 4 Infraction.

7.10.175 - Obstructed Driver's View

Any person who drives a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the mechanism of the vehicle, OR

Any passenger who rides in such a position as to interfere with the driver's view ahead or to the sides, or interferes with the driver's control over the driving mechanism of the vehicle shall be guilty of a Level 4 Infraction.

7.10.180 - Open Door While Vehicle in Motion

Any driver or passenger who opens the door of a vehicle they are riding in while said vehicle is in motion shall be guilty of a Level 4 Infraction.

7.10.185 - Riding in Trailers

Any person who occupies any trailer while it is being moved, except a trailer designed to be steered from a rear-end-position, shall be guilty of a Level 4 Infraction.

7.10.190 - Interfering with Fire Apparatus

Any driver who:

- 1) follows any fire apparatus traveling in response to a fire alarm closer than five hundred feet, OR
- 2) drives over any unprotected hose of a fire department, when laid down on any roadway, to be used at any fire or alarm of fire, without consent of the fire department official in charge shall be guilty of a Level 3 Infraction.

7.10.195 - Throwing/Leaving Dangerous Materials on Roadway

Any person who:

- 1) throws or deposits upon any roadway any glass bottle, glass, nails, tacks, wire, cans, or any other substance likely to injure persons, animals, vehicles, or other property, OR
- 2) when removing a wrecked or damaged vehicle from the roadway, fails to remove any glass or other injurious object or substance dropped from the wrecked vehicle shall be guilty of a Level 2 Infraction.

7.10.200 - Unsecured Load

Any person who operates a motor vehicle and carries any load that is not secured by a securely fastened covering or restraints that prevent the load from becoming detached, loose, or dropped in any manner shall be guilty of a Level 2 Infraction. The Court may also require a violator of this section to pay the cost of cleaning up or removing any load or debris dropped on the roadway.

Nothing in this section may be construed to prohibit a public maintenance vehicle from dropping sand for traction or sprinkling water or other substances to clean or maintain a roadway.

7.10.205 - Carrying Persons or Animals on Outside of Vehicle

Any person who carries a person or living animal on the running board, fenders, hood, truck bed, or any other area not inside the cab or passenger area of any vehicle shall be guilty of a Level 2 Infraction.

This section shall not apply to an authorized emergency vehicle.

7.10.210 - Clinging to Vehicles

Any person who, while riding upon any bicycle, coaster, roller skates, scooter, sled, toy vehicle, or by any other means, attaches himself to any vehicle moving upon a roadway shall be guilty of a Level 2 Infraction.

7.10.215 - Child Passenger Restraint Required

Any driver who carries in his vehicle a passenger under ten (10) years of age and fails to restrain the child in a child restraint system that complies with the standards of the United States Department of Transportation and, based on the size of the child, is either a child safety seat, child booster seat, or safety belt, shall be guilty of a Level 2 Infraction.

Violation of this section shall not constitute negligence by a parent or legal guardian, nor shall failure to use a child restraint system be admissible as evidence of negligence in any civil action.

This section shall not apply to for-hire vehicles, vehicles designed to transport sixteen (16) or fewer passengers operated by auto transportation companies, and vehicles providing customer shuttle service between parking, convention, hotel facilities, and airport terminals.

7.10.220 - Safety Belt Use Required

This section only applies to motor vehicles that meet the manual seat belt safety standards as set forth in Federal Motor Vehicle Safety Standard 208. This section does not apply to a vehicle occupant for whom no safety belt is available when all designated seating positions as required by Federal Motor Vehicle Safety Standard 208 are occupied.

Every person sixteen (16) years of age or older operating or riding in a motor vehicle shall wear the safety belt assembly in a properly adjusted and securely fastened manner. No person may operate a motor vehicle unless all passengers under the age of sixteen (16) are either wearing a safety belt assembly or are securely fastened into an approved child restraint device. Violation of this section is a Level 3 Infraction.

Failure to comply with the requirements of this section does not constitute negligence, nor may failure to wear a safety belt assembly be admissible as evidence of negligence in any civil action.

This section does not apply to an operator or passenger who possesses written verification from a licensed physician that the operator or passenger is unable to wear a safety belt for physical or medical reasons.

7.10.225 – Vehicle Equipment

For purposes of enforcement of this section, Washington RCW Title 46, Chapter 37 regarding vehicle lighting and other equipment shall be adopted and incorporated into this Chapter.

A person who violates the provisions of RCW 46.37 shall be guilty of a Level 4 Infraction.

CHAPTER 7.15 - TRAFFIC OFFENSES

7.15.005 - Application of Chapter, Permission Necessary to Enter Upon Private Lands

The provisions of this chapter apply to the operation of vehicles on any road, street, dirt path, or any other area accessible to vehicles within the jurisdiction of the Stillaguamish Tribe of Indians.

Nothing in this chapter grants to any person the right or authority to enter upon private property without permission of the property owner, except for law enforcement, emergency vehicles, or other duly authorized persons in "hot pursuit" or with a valid order of a Court of competent jurisdiction.

7.15.010 - Unlicensed Drivers Subject to All Provisions

Any person who operates a motor vehicle without a valid operator's license or instruction permit shall be subject to all of the provisions of this chapter to the same extent as a person who is licensed.

7.15.015 - Vehicular Homicide

Any person who operates a vehicle in a reckless manner or while under the influence of an alcoholic beverage or controlled substance, and his conduct is the proximate cause of the death of another shall be guilty of a Class A offense.

7.15.020 - Vehicular Assault

Any person who operates a vehicle in a reckless manner or while under the influence of an alcoholic beverage or controlled substance, and his conduct is the proximate cause of serious bodily injury to another shall be guilty of a Class B offense.

7.15.025 - Negligent Driving

Any person who operates a motor vehicle within the jurisdiction of the Stillaguamish Tribe of Indians in a manner which causes damage to any person or property, or in a manner which endangers or is likely to endanger any person or property shall be guilty of a Level 2 Infraction.

7.15.030 - Attempt to Evade Pursuing Police Vehicle

Any driver of a vehicle who willfully fails or refuses to immediately bring his or her vehicle to a stop after being given visual or audible signal to do so by a law enforcement officer engaged in his lawful duty, and drives in a reckless manner to avoid being stopped, shall be guilty of a Level 1 Infraction.

7.15.035 - Obedience to Enforcement Officers

Any person who willfully refuses or fails to comply with any lawful order, signal, or direction of any duly authorized flagger, or any police officer or firefighter authorized by law to direct, control, or regulate traffic shall be guilty of a Level 2 Infraction.

7.15.040 - Refuse to Give Identification

Any person who, while operating or in charge of a vehicle refuses, when requested by a law enforcement officer, to give his correct name, date of birth, address, or other identifying information, or gives a false name, date of birth, address, or other identifying information shall be guilty of a Level 2 Infraction.

7.15.045 - Taking Motor Vehicle without Permission

Any person who, without permission of the owner or person entitled to the possession thereof, intentionally takes or drives away any automobile or vehicle shall be guilty of a Class B offense.

Any person who voluntarily rides in or upon such vehicle and knows or should reasonably know that the vehicle was unlawfully taken shall be guilty of a Level 3 Infraction.

It shall not be a defense that the defendant initially had permission from the owner to take the vehicle if an agreement was made for the return of the vehicle and the defendant failed to comply with terms of the agreement.

7.15.050 - Driving While License Suspended or Revoked

Any person who operates a motor vehicle within the jurisdiction of the Stillaguamish Tribe of Indians when his vehicle operator's license or privileges have been suspended or revoked by any court of competent jurisdiction or any Tribal or state department of licensing, except in compliance with the terms of a valid occupational limited use license, shall be guilty of a Level 2 Infraction.

Any law enforcement officer who has received notice of the suspension or revocation of a driver's license may, during the reported period of the suspension or revocation, stop any motor vehicle identified by its vehicle license number as being registered to the person whose driver's license has been suspended or revoked. The driver of the vehicle shall display his operator's license upon the request of the officer.

Upon determining that a person operating a motor vehicle with a suspended or revoked driver's license, a law enforcement officer may immediately have the vehicle towed for impound. The vehicle may be released after the owner or driver pays the reasonable costs of the impoundment and storage.

The officer shall provide the driver or owner written or oral notice of his right to a hearing in Tribal Court to contest the validity of the impoundment or any charges related to towing. A request for a hearing must be made to the court clerk within ten (10) days of the impoundment or the driver/owner will be deemed to have waived his right to such hearing. The court will notify the driver/owner of the hearing date. The court will then authorize release of the vehicle at the owner's expense pending the hearing.

7.15.055 - Driving Without a Valid Operator's License

Any person who operates a motor vehicle within the jurisdiction of the Stillaguamish Tribe of Indians when he has not been issued a valid operator's license by any Tribal or state department of licensing shall be guilty of a Level 2 Infraction.

It shall be a defense that:

- 1) the person had a valid instruction permit and was accompanied in the vehicle by a person with a valid operator's license and at least five (5) years' licensed driving experience, OR
- 2) the person had a valid temporary license, OR
- 3) the person was operating construction equipment or any farm tractor or implement of husbandry which is only incidentally operated or moved over a highway.

Upon determining that a person is operating a motor vehicle without a valid driver's license in violation of this section, a law enforcement officer may immediately have the vehicle towed for impound. The vehicle may be released after the owner or driver pays the reasonable costs of the impoundment and storage.

The officer shall provide the driver or owner written or oral notice of his right to a hearing in Tribal Court to contest the validity of the impoundment or any charges related to towing. A request for a hearing must be made to the court clerk within ten (10) days of the impoundment or the driver/owner will be deemed to have waived his right to such hearing. The court will notify the driver/owner of the hearing date. The court will then authorize release of the vehicle at the owner's expense pending the hearing.

7.15.060 - Driving Under the Influence of Liquor and/or Drugs

Any person who drives a motor vehicle while:

- 1) he is under the influence of or affected by intoxicating liquor, marijuana, or drugs, or both, OR
- 2) he has, within two hours of driving, .08 or more grams of alcohol per 210 liters of breath, if over age 21, or .02 or more grams per 210 liters of breath if under age 21, as shown by an analysis of his breath by a portable breath test (PBT) or by use of a BAC Verifier, or by analysis of his blood, OR
- 3) he has, within two hours of driving, THC blood concentration of 5.00 or higher shown by blood analysis shall be guilty of a Class C offense.

It shall not be a defense that the person charged with violation of this section was lawfully using any drug at the time of the violation.

"THC concentration" means nanograms of delta-9-tetrahydrocannabinol per milliliter of a person's whole blood. THC concentration does not include measurement of the metabolite THC-COOH, also known as carboxy-THC.

Upon determining that a person is/has been operating a motor vehicle while under the influence of liquor and/or drugs, a law enforcement officer may immediately have the vehicle towed for impound. The vehicle may be released after the owner or driver pays the reasonable costs of the impoundment and storage.

The officer shall provide the driver or owner written or oral notice of his right to a hearing in Tribal Court to contest the validity of the impoundment or any charges related to towing. A request for a hearing must be made to the court clerk within ten (10) days of the impoundment or the driver/owner will be deemed to have waived his right to such hearing. The court will notify the driver/owner of the hearing date.

7.15.065 - Physical Control of Motor Vehicle While Under the Influence of Liquor and/or Drugs

Any person who has actual physical control of a motor vehicle and the vehicle is not safely off the roadway while:

- 1) he is under the influence of or affected by intoxicating liquor, or drugs, or both, OR
- 2) he has, within two hours of driving, .08 or more grams per 210 liters of breath, if over age 21, or .02 or more grams per 210 liters of breath if under age 21, as shown by an analysis of his breath by a portable breath test (PBT) or by use of a BAC Verifier, or by analysis of his blood shall be guilty of a Class C offense.

It shall not be a defense that the person charged with violation of this section was lawfully using any drug at the time of the violation.

Upon determining that a person is in physical control of a motor vehicle while under the influence of liquor and/or drugs, a law enforcement officer may immediately have the vehicle towed for impound. The vehicle may be released after the owner or driver pays the reasonable costs of the impoundment and storage.

The officer shall provide the driver or owner written or oral notice of his right to a hearing in Tribal Court to contest the validity of the impoundment or any charges related to towing. A request for a hearing must be made to the court clerk within ten (10) days of the impoundment or the driver/owner will be deemed to have waived his right to such hearing. The court will notify the driver/owner of the hearing date.

7.15.070 - Failure to Leave Information or Report Traffic Accident

Any person who is a driver involved in a traffic collision with either a person, an animal and/or a fixed object or a moving vehicle upon lands accessible to traffic or roads of the Stillaguamish Tribe and fails to leave information with the other driver or owner of property, or who fails to report the collision to law enforcement when such person is not locatable, shall be guilty of a Level 2 Infraction.

7.15.075 - Leaving Children Unattended in a Motor Vehicle

Any person who has control over a motor vehicle and leaves any children under the age of sixteen (16) years unattended in said vehicle shall be guilty of a Level 3 Infraction.

7.15.080 - Leaving Weapon Unattended in Vehicle

Any person who knowingly leaves unattended a firearm or other dangerous weapon in an unlocked vehicle where it is clearly visible from the outside of the vehicle shall be guilty of a Level 3 Infraction.

7.15.085 - Carry Loaded Firearm in Vehicle

Any person who shall carry a loaded firearm in the passenger compartment of a motor vehicle and said firearm is not locked in a secure, opaque container shall be guilty of a Level 2 Infraction.

It shall be a defense that the person had a valid concealed weapons permit issued by the Stillaguamish Tribe or other competent jurisdiction within the State of Washington and the person was carrying the weapon on his person in compliance with the permit. It shall also be a defense that the person was in transit to or from a hunting excursion and had a valid hunting permit issued by the Stillaguamish Tribe or other competent jurisdiction within the State of Washington.

CHAPTER 8.05 - OFFENSES AGAINST PERSONS

8.05.005 - Assault in the First Degree

Any person who:

- 1) with intent to inflict great bodily harm, assaults another with a firearm or other deadly weapon or by any force or means likely to inflict great bodily harm or death, regardless of injury, or
- 2) intentionally exposes or transmits to another the human immunodeficiency virus (HIV) or any other noxious, poisonous, or destructive substance, or
- 3) assaults another and inflicts great bodily harm, or
- 4) assaults a law enforcement officer, firefighter or paramedic, health care worker, social worker (ICW or State), school bus driver, or transit bus driver while such person is lawfully engaged in the performance of their duties, or
- 5) with criminal negligence, causes bodily harm accompanied by substantial pain that extends for a period sufficient to cause considerable suffering, or
- 6) intentionally and unlawfully causes substantial bodily harm to an unborn child by inflicting any injury upon the mother shall be guilty of a Class A offense.

8.05.010 - Assault in the Second Degree

Any person who:

- 1) intentionally assaults another with either physical force or with a weapon or other instrument likely to produce bodily harm, or
- 2) intentionally assaults another and thereby recklessly causes bodily harm, including substantial bodily harm, but not amounting to great bodily harm, or knowingly discharges a laser at a law enforcement officer, firefighter, transit operator, pilot, or school bus driver in a manner that would support the victim's belief they were being targeted by a laser sighting device or in a manner that would otherwise interfere with the victim's safety or ability to perform his or her duties, or
- 3) intentionally, with unlawful force, creates in another a reasonable apprehension and fear of bodily injury, even though the infliction of bodily injury was not actually intended shall be guilty of a Class B offense.

8.05.015 - Intimidation

Any person who, by use of words or conduct, threatens to cause injury to another person or his property with intent to coerce the person to act against his or her will shall be guilty of a Class C offense.

8.05.020 - Kidnapping in the First Degree

Any person who intentionally abducts another with intent:

- 1) to hold that person for ransom or reward, or as a shield or hostage, or
- 2) to facilitate the commission of a crime or flight thereafter, or
- 3) to inflict bodily harm on him, or
- 4) to inflict extreme mental distress on him or a third person, or

5) to interfere with the performance of any governmental function shall be guilty of a Class A offense.

8.05.025 - Kidnapping in the Second Degree

Any person who intentionally abducts another person under circumstances not amounting to Kidnapping in the First Degree shall be guilty of a Class B offense.

8.05.030 - Malicious Harassment

Any person who intentionally commits Assault, Malicious Mischief, Arson, Intimidation, or lesser included offenses because of his perception of the victim's race, color, religion, ancestry, national origin, gender, sexual orientation, or handicap shall be guilty of a Class C offense.

It shall not be a defense that the accused was mistaken regarding the victim's background.

Any person who commits another crime during the commission of Malicious Harassment may also be prosecuted for the additional offense.

8.05.035 - Criminal Homicide

Any person who:

- 1) knowingly, recklessly, or negligently causes the death of another, or
- 2) commits Burglary, Assault, Arson, Rape, Robbery, or Kidnapping and, during the commission of or immediate flight therefrom, he or another participant in the act causes the death of another shall be guilty of a Class A offense.

8.05.040 - Promoting a Suicide Attempt

Any person who knowingly causes or aids another to attempt suicide shall be guilty of a Class C offense.

8.05.045 - Reckless Endangerment

Any person who recklessly engages in conduct that creates a substantial risk of death or substantial physical injury to another shall be guilty of a Class C offense.

8.05.050 - Robbery

Any person who takes the property of another from his person or in his presence:

- 1) by threat of injury to the person or property, or
- 2) by assaulting the person, or
- 3) by use of threat or assault, retains possession of property taken from the victim shall be guilty of a Class B offense.

8.05.055 - Stalking

Any person who, without lawful authority, intentionally and repeatedly harasses or repeatedly follows another person and the victim reasonably believes the stalker intends to do harm to him or his property and the stalker reasonably should know the victim is in fear, is guilty of a Class C offense.

8.05.060 - Luring

Any person who, without lawful authority to do so, orders, lures, or attempts to lure a minor or developmentally disabled person into any area or structure that is obscured from or inaccessible to the public or into a motor vehicle shall be guilty of a Class C offense.

8.05.065 - Unlawful Imprisonment

Any person who, without lawful authority, knowingly restrains another person who otherwise has a lawful right to freely move about shall be guilty of a Class B offense.

8.05.070 - Contributing to the Criminal Act of a Minor

Any person who, by act or omission, knowingly encourages, causes, or contributes to the criminal act of a minor shall be guilty of a Class C offense.

CHAPTER 8.10 – OFFENSES AGAINST THE FAMILY

8.10.005 - Assault of a Child

Any person eighteen (18) years of age or older who:

- 1) assaults a child under the age of thirteen (13) and thereby causes substantial bodily harm, or
- 2) intentionally assaults the child and causes bodily harm that is greater than the transient physical pain or minor temporary marks commonly found with the lawful exercise of parental discipline and the defendant has previously engaged in a pattern or practice of assault resulting in substantial bodily harm or physical pain or agony equivalent to that produced by torture shall be guilty of a Class B offense.

8.10.010 - Bigamy

Any person who intentionally marries or falsely claims to marry another when either person has a living spouse shall be guilty of a Class B offense.

In any prosecution under this section, it is a defense that at the time of the subsequent marriage or purported marriage:

- 1) the defendant reasonably believed that the prior spouse was deceased, or
- 2) a court had entered a judgment purporting to terminate or annul any prior disqualifying marriage and the actor did not know that such judgment was invalid, or
- 3) the defendant reasonably believed that he was legally eligible to marry.

8.10.015 - Custodial Interference

Any person who, without lawful authority, knowingly takes or entices a minor or incompetent person from the legal custody of a person, agency, or institution, or who fails to return a minor or incompetent person to another's legal custody as required by the terms of a valid court order from a court of competent jurisdiction shall be guilty of a Class B offense.

8.10.020 - Desertion and Non-Support of a Minor

Any person who:

- 1) leaves a minor who is less than twelve (12) years of age alone for an amount of time that would ordinarily raise concern based on the standards of the Stillaguamish Tribal Community and fails to provide for the minor's support or care while he is away, or
- 2) willfully neglects or refuses to provide for the support or maintenance of his minor child or of a minor in his custody when financially able to do so shall be guilty of a Class C offense.

8.10.025 - Endangering the Welfare of a Minor

Any person who knowingly endangers the welfare of a minor by violating a duty of care, protection or support, or by intentionally leaving the minor without care or by otherwise neglecting to care for the minor in any manner which threatens serious harm to the physical or emotional well-being of the minor shall be guilty of a Class C offense.

8.10.030 - Failure to Support Dependent Persons

Any person who, without reasonable excuse, refuses or neglects to furnish food, shelter, or care to those dependent upon him under the laws of customs and usage of the Stillaguamish Tribe of Indians, or if he fails to make proper use of funds or property of a dependent person for the benefit of the dependent shall be guilty of a Class C offense.

8.10.035 - Incest

Any person who engages in sexual intercourse or has sexual contact with a person whom he knows to be related to him, either legitimately or illegitimately, as a grandparent, parent, child, step-child, adopted child, sibling, aunt, uncle, niece, nephew, first cousin, or second cousin, of either the whole or half blood, shall be guilty of a Class B offense.

8.10.040 – Unlawful Harboring of a Minor

Any person who knowingly provides shelter to a minor without the consent of a parent or guardian of the minor and after the person knows the minor is away from the home of the parent or guardian without the parent's permission, and if the person intentionally:

- 1) fails to release the minor to a law enforcement officer after being requested to do so by the officer; OR
- 2) fails to disclose the location of the minor to a law enforcement officer after being requested to do so by the officer, if the person knows the location of the minor and had either taken the minor to that location or had assisted the minor in reaching that location; or
- 3) obstructs a law enforcement officer from taking the minor into custody; or
- 4) assists the minor in avoiding or attempting to avoid the custody of the law enforcement officer shall be guilty of a Class C offense.

It shall be a defense that the defendant had custody of the minor pursuant to a court order. Any person who provides shelter to a minor child, absent from home (runaway) and knows the minor to be absent from home without permission, shall notify the minor's parent, guardian, or the Tribe's Indian Child Welfare office or Tribal law enforcement officers.

CHAPTER 8.15 - TRUANCY

8.15.005 - Purpose

The purpose of this chapter is to require the regular attendance at school of all school-age children living within the jurisdiction of the Stillaguamish Tribe and all Stillaguamish Indian children living within the Arlington School District.

8.15.010 - Abrogation and Greater Restrictions

When this chapter imposes greater restrictions or penalties than those contained in other Tribal ordinances, codes, or resolutions, the provisions of this code shall prevail.

8.15.015 - Applicability

This chapter shall apply to all school-age children living within the jurisdiction of the Stillaguamish Tribe and all Stillaguamish Indian children living within the Arlington School District.

8.15.020 - Definitions

For the purpose of this chapter, the following terms shall have the meanings ascribed below:

“Adult” means any person 18 years of age or older;

“Child” means any person who is less than 18 years of age;

“Member” means a person enrolled with the Stillaguamish Tribe;

“School” means the Arlington Public Schools and includes any alternative sites where instruction may occur;

“School Attendance” means physical presence of a child in school, and includes attending scheduled classes during such hours and on such days as determined by the school or, for students enrolled in alternative education programs, attendance at the place and during the hours scheduled by the school for the student, unless excused from such attendance by school policy or state law;

“School Attendance Officer” means an employee designated or hired by the Stillaguamish Tribe to deal with matters relating to school attendance and truancy (Tribal Police, Indian Child Welfare Caseworkers, Education Director, Etc.);

“School Attendance Policy” means the current policy for school attendance duly adopted by the appropriate school board;

“Indian Child” means a child who is either an enrolled member or eligible to be an enrolled member of any federally recognized Indian Tribe;

“Tribal Court” means the Stillaguamish Tribal court or any lawful court acting on behalf of the Stillaguamish Tribe;

“Truancy” means any absence by a child from part or all of one or more days from school during which the school attendance officer, his agent, or an appropriate school authority has not been notified of the excused absence by the person having the absent child under his or her control during non-school hours. Truancy also means intermittent attendance carried on for the purpose of defeating the intent of the attendance laws of the state of Washington or the Stillaguamish Tribe;

“Habitual Truancy” means being truant for five (5) days within a period of ten (10) school days or ten (10) truancies within any period of ninety (90) school days during a school year.

“Student” means one who attends school;
“Tribe” means the Stillaguamish Tribe;
“School-Age Child” means a child age 5 to 17.

8.15.025 - School Enrollment Required

Except as excused under the state of Washington’s compulsory attendance regulations, any person having under their control a school aged child shall enroll the child in school.

8.15.030 - Requirement to Attend School

Except as excused under the state of Washington’s compulsory attendance regulations, or under a school policy governing school attendance, any person having under their control a child age 5 or older shall cause the child to attend the school in which the child is or should be enrolled.

8.15.035 - Truancy Prohibited

Truancy is prohibited.

It shall be unlawful for any person to cause, assist, or enable a child to be truant.

8.15.040 - Records

REPEAT VIOLATIONS – ORDER TO SCHOOL TO RELEASE SCHOOL RECORDS

In any case in which the Tribal Court finds reasonable suspicion to believe that repeated violations of this chapter have occurred and that the violations pose a danger to the health, safety, or well-being of the child, the Court may order the school to provide the Court with a copy of the child’s school discipline and attendance records. The records shall remain sealed and confidential except for disclosure to the Court, the child, the parent or guardian, and their legal representative. The records shall not be disclosed to other persons for any reason. Upon the child’s reaching adult age, the records shall sealed and archived for a period not to exceed seven (7) years.

SCHOOL INFORMATION PROVIDED TO TRIBAL EDUCATION DEPARTMENT

Every school shall, within thirty (30) days of the beginning of each semester, provide the Tribal Education and Indian Child Welfare Departments with all directory information regarding its students including rosters, absentee lists, and withdrawal lists, without requiring the consent of the students or their guardians as provided by 25 USC 1901 et. seq.

8.15.045 - Enforcement

The School Attendance Officer, Indian Child Welfare Caseworker, Tribal Social Worker, Education Manager, or Tribal Law Enforcement may enforce the provisions of this chapter.

Any person authorized to enforce the provisions of this chapter may stop and detain any child upon reasonable belief that the child has violated this chapter. Any child shall provide identification and give his name, address, age, and parental information to any person authorized to enforce this chapter.

Tribal Law Enforcement is authorized to issue citations and/or make arrests of any child who violates this chapter.

PUBLIC RESPONSIBILITY TO REPORT. Anyone who has reason to believe a child is truant shall immediately notify the truancy officer or Tribal Law Enforcement of the child’s possible truancy, the whereabouts of the child, and the child’s name and address, if known.

8.15.050 - Penalties

Violation of this chapter is a Class D offense.

For a child convicted under this chapter, community service hours equal to the number of hours truant may be substituted for detention time. The court may also impose counseling, chemical dependency assessment, or other methods of reporting to Tribal education or child welfare authorities.

Incidents of Truancy shall be referred to the Tribal Education Manager and the Indian Child Welfare Caseworker for further proceedings.

CHAPTER 8.20 – DOMESTIC VIOLENCE

(Repealed and replaced with the Stillaguamish Domestic Violence Code)

CHAPTER 8.23 – ELDER AND VULNERABLE ADULT ABUSE

8.23.005 - Policy

The Stillaguamish Tribe of Indians recognizes that elder and vulnerable adult abuse is a serious crime. The official response to cases of elder and vulnerable adult abuse shall stress the enforcement of law to protect the victims and shall communicate the policy of the Stillaguamish Indian Tribe to ensure the victims of elder and vulnerable adult abuse receive the maximum protection from abuse which the law and those whom enforce it can provide.

8.23.010 - Definitions

Where a term is not defined in this section, it shall be given its ordinary meaning, unless otherwise defined in this code. Terms used in this section shall have the following meaning except where the context clearly indicates otherwise:

“Abuse” includes:

- 1) Assault: an attempt to cause bodily harm to another person through the use of force, or the creation in another of a reasonable fear of imminent physical or other harm.
- 2) Battery: application of force to another person resulting in bodily harm or offensive touching.
- 3) Threatening: words or conduct that place another in fear of physical or other harm on any person or their property, including but not limited to yelling and harsh words.
- 4) Coercion: compelling a person, through force or threat of force, to engage in or abstain from conduct that the person has a right to abstain from or engage in.
- 5) Unreasonable confinement, intimidation, or cruelty: acts which result in physical harm or pain or mental anguish of an elder or vulnerable adult by any person, particularly anyone such as a spouse, a child, other family members, caregiver(s), or other persons recognized

by statutory or common law as having a special relationship with or duty to the elder or vulnerable adult.

- 6) Sexual abuse: any physical contact with an elder or vulnerable adult for emotional or physical gratification of the person making the contact and to which the elder or vulnerable adult does not give consent, for which the elder does not have the capacity to consent, or for which consent is obtained by coercion, threat, intimidation or fraud.
- 7) Emotional abuse: infliction of threats, humiliation, or intimidation that cause emotional trauma.
- 8) Intimidation: willfully placing another in fear by coercion, extortion, or duress.
- 9) Harassment or stalking: Unwanted contact in any form, including electronic contact, or any course of conduct directed at a specific person that involves repeated (two or more times) visual or physical proximity, nonconsensual communication, or verbal, written, or implied threats.
- 10) Exploitation: the illegal use of funds, property, or other resources of an elder or vulnerable adult for personal gain by threat, humiliation, intimidation, coercion, deception, or fraud. Exploitation is also failure to use the funds, property, or other resources of any elder or vulnerable adult for the benefit of the elder or vulnerable adult and includes, but is not limited to, leaving a child or children or other persons for indefinite periods of time or under circumstances in which the elder or vulnerable adult cannot adequately care for such children or other persons.
- 11) Abandonment: action or inaction by a person with a duty of care for an elder or a vulnerable adult that leaves the elder or vulnerable adult without the means or ability to obtain Essential Services.
- 12) Breach of a fiduciary duty: breach by a family member or caregiver of his or her fiduciary duties toward an elder or vulnerable adult.

“Caretaker” shall mean any individual, group of individuals, or institution that is permanently or temporarily responsible by relationship, contract, or court order to provide food, shelter, clothing, medical or other life-sustaining necessities to an elder or vulnerable adult.

“Court” shall mean the Stillaguamish Tribal Court or any other court of competent jurisdiction;

“Elder” shall mean any enrolled Stillaguamish Tribal member who has reached the age of fifty (50) years or older.

“Essential Services” means those services or things necessary to sustain a person’s life, physical and mental health, and general well-being, such as adequate food, clothing, shelter, and health care. It may include services or things considered essential under the person’s customs, traditions

and religion, including but not limited to access to traditional foods and access to religious ceremonies or services.

“Stillaguamish Adult Protective Services” means the Tribe’s program, including the Tribe’s Protective Services Worker and the Adult Protection Team, dedicated to protecting elders and vulnerable adults as described in the Stillaguamish Elder and Vulnerable Adult Protection Code.

“Vulnerable adult” means a person eighteen (18) years of age or older who is an enrolled member of the Stillaguamish Tribe and who suffers permanent or temporary impairment by reason of mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication, or other impairment such that the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his/her person and/or is unable to protect himself/herself from abuse as defined by the Elder and Vulnerable Adult Protection Code. The Protective Services Worker may make a presumptive finding of vulnerability at the scene or it may be made by court order, but any determination of mental illness, mental deficiency, or mental disorder shall be made by a licensed mental health professional.

8.23.015 - Crimes of Elder or Vulnerable Adult Abuse

- A. Any Caretaker, Relative, or other person who has been employed to provide care, or who has assumed a legal duty to provide care, or who has been appointed by a court to provide care to a vulnerable adult or elder and who causes or permits the life of the vulnerable adult or elder to be endangered, his/her health to be injured or to be imperiled by abuse, neglect or exploitation is guilty of the criminal offense of Elder or Vulnerable Adult Abuse.
- B. Any Caretaker, Relative, or other person who aids, abets or otherwise assists or condones the acts or omissions of another person who abuses, neglects or exploits a vulnerable adult or elder shall be treated as if such person committed the offenses himself or herself and is guilty of the criminal offense of Aiding and Abetting Elder or Vulnerable Adult Abuse.

8.23.020 - Law Enforcement Officers: Training, Powers, Duties

Training. All training relating to the handling of elder and vulnerable adult abuse complaints by Stillaguamish Tribal Police officers shall stress enforcement of criminal laws, availability of community resources, coordination with social services such as the Stillaguamish Adult Protective Services, and protection of the victim. The Stillaguamish Division of Law Enforcement Services and community organizations with expertise on the issue of elder and vulnerable adult abuse shall cooperate in all aspects of such training.

Duties. The primary duty of Stillaguamish Tribal Police officers when responding to an elder or vulnerable adult abuse situation is to enforce the laws allegedly violated and to protect the

victim. The Stillaguamish Tribal Police officers shall have the authority to arrest or issue a criminal summons pursuant to this Code.

Offense Report. A law enforcement officer, having responded to a call where elder or vulnerable adult abuse occurred, shall complete an offense report, including statements from those involved, and the officer's disposition of the case. Should probable cause be found by the officer, a copy of the report shall be forwarded to the court.

Assistance to Victims. The Stillaguamish Tribal Police officers are authorized under the Elder and Vulnerable Adult Code to take immediate steps to protect the elder, as set forth in the Elder and Vulnerable Adult Code. The Stillaguamish Tribal Police officers are required under the Elder and Vulnerable Adult Code to write a report of any reported elder or vulnerable adult abuse, and to provide that report to the Stillaguamish Adult Protective Services and to the Washington State Adult Protection Services.

Report to Prosecutor. The Stillaguamish Division of Law Enforcement Services shall forward an elder/vulnerable adult offence report to the Stillaguamish Tribal Prosecutor within ten (10) business days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation.

Response. When a law enforcement officer responds to an elder or vulnerable adult abuse call, the officer shall notify the victim of the victim's right to initiate a criminal proceeding against the offender in all cases where the officer has not exercised arrest powers or decided to initiate criminal proceedings by summons or otherwise. The parties in such cases shall be advised of the importance of preserving evidence.

8.23.025 Arrest

A. An Officer shall arrest and take into custody persons whom the Officer has probable cause to believe abused, exploited or neglected an elder or vulnerable adult. No warrant is required to make such arrest. This mandatory arrest provision means that the victim need not sign a complaint for an arrest to occur. Further under this provision, an Officer shall arrest under probable cause even though it may be against the express wishes of the victim. An Officer shall arrest and take into custody, a person whom the Officer has probable cause to believe has violated a court order for protection, restraining the person from contact with the victim or excluding the person from the residence, if the existence of the court order can be verified. Regardless of whether the person violating the court order was invited back into the home, an arrest shall be made. Nothing in the above provision, or other provisions of Section 8.20.025, shall be construed to provide authority to arrest if it does not otherwise exist under applicable law.

B. Arrest is the MANDATORY response in elder/vulnerable adult cases that involve:

1. Injury to the victim
2. The use or threatened use of a weapon

3. Violation of a restraining court order
4. Imminent danger through abuse or neglect of an elder/vulnerable adult.

C. Arrest of a person exploiting an elder, vulnerable adult or the property of an elder or vulnerable adult is not mandatory, but is discretionary. The investigating Officer shall file a written report in accordance with the Elder and Vulnerable Adult Protection Code, and provide that report to the Stillaguamish Adult Protective Services and to the Washington State Adult Protection Services.

D. Any person arrested under this Code shall be held in the custody of the appropriate local jail or detention facility where the Tribe has a contractual arrangement in place, until after their arraignment before a judge, and only after such arraignment and the setting of a bond by such judge can the person post a bond or otherwise be released. The arraignment before a judge shall occur within seventy-two (72) hours (excluding weekends and holidays) of any arrest under this Code.

E. Any Officer taking action to arrest a suspect under authority of this Section shall be immune from any civil, criminal, or other liability by reason of such action, unless the Officer acted with malice, bad faith, gross negligence, committed perjury or unless such Officer has been charged with or is suspected of abusing, exploiting or neglecting the vulnerable adult or elder in question.

8.23.030 – Temporary No-Contact Order

When a person is arrested and charged with a criminal violation of this Code, the Tribal Prosecutor shall file a Temporary No-Contact Order with the Court.

8.23.035 - Penalties

A person convicted of a crime of Elder or Vulnerable Adult Abuse shall be guilty of a Class A offense.

Anyone criminally convicted of violating this Code two (2) times in a five (5) year period, each conviction having arisen from an independent occurrence, shall face a mandatory minimum sentence of the maximum imprisonment period and the maximum monetary fine. Any previously conditionally suspended jail time may be re-imposed by the Court.

In addition to any other sentence and Order of the Court, any person convicted under a criminal offense under this Code shall be required to pay, pursuant to a final judgment and Order of the Court, the cost of his or her incarceration in the local jail or detention facility where he or she will be incarcerated.

8.23.040- - Violation of Protection Order

Any person who violates a no-contact order, an elder or vulnerable adult protection order, or any other order issued by the Court or by any other Court of competent jurisdiction that is designed to protect the petitioner/victim or members of his or her household shall be guilty of a Class C offense provided:

- 1) The person is the defendant or respondent listed on the Order;
- 2) Service of the Order has been made upon the person prior to the alleged violation; and
- 3) The order has not expired.

It shall not be a defense that the person was invited by the petitioner/victim to commit an act that would otherwise be considered a violation of the terms of the Order. Only the Court may authorize a waiver of the Order and only the Court may rescind or recall an Order.

8.20.045 – Full Faith & Credit

The Stillaguamish Tribe shall give full faith and credit to any validly-issued elder or vulnerable adult protection order issued by any other court of competent jurisdiction, as shall any such court give full faith and credit to any validly-issued protection order from the Stillaguamish Tribal Court.

8.20.050 – Transmitting Orders to Other Agencies

It shall be the responsibility of Stillaguamish Tribal Court to transmit all validly-issued No-Contact Orders from the Stillaguamish Tribal Court to all other appropriate law enforcement agencies and/or all appropriate courts of law.

CHAPTER 8.25 - SEXUAL OFFENSES

8.25.005 - Definitions

- 1) "Sexual Intercourse" has its ordinary meaning and occurs upon any penetration, however slight, and
 - a) also means any penetration of the vagina or anus, however slight, by an object when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and
 - b) also means any act of sexual contact between persons involving sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.
- 2) "Sexual Contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party.
- 3) "Married" means one who is legally married to another, but does not include a person who is living separate and apart from his spouse and who has filed in an appropriate Court for legal separation or for dissolution of his marriage; or one who, under Tribal custom and tradition as defined by the tribal Council, would be considered a spouse to another and who reside together.
- 4) "Mental Incapacity" is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance, or from some other cause, whether temporary or permanent.
- 5) "Physically Helpless" means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

- 6) "Forcible Compulsion" means physical force which overcomes resistance, or a threat, either express or implied, that places another person in fear of death or physical injury to himself or another, or in fear that he or another will be kidnapped.
- 7) "Consent" means that at the time of the act of sexual intercourse or sexual contact, there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.
- 8) "Significant Relationship" means a situation in which the perpetrator is:
 - a) a person who undertakes the responsibility, professionally or voluntarily, to provide education, health, welfare, or organized recreational activities principally for minors, or
 - b) a person who, in the course of his employment, supervises minors.

8.25.010 - Defenses

- 1) In any prosecution under this chapter in which lack of consent is based solely upon the victim's mental incapacity or upon the victim's being physically helpless, it is a defense which the defendant must prove by a preponderance of the evidence that at the time of the offense, the defendant reasonably believed that the victim was not mentally incapacitated and/or physically helpless.
- 2) In any prosecution under this chapter in which the offense or degree of the offense depends on the victim's age, it is no defense that the perpetrator did not know the victim's age, or that the perpetrator believed the victim to be older, as the case may be: PROVIDED, that it is a defense which the defendant must prove by a preponderance of the evidence that at the time of the offense the defendant reasonably believed the alleged victim to be the age identified in subsection (3) of this section based upon declarations as to age by the alleged victim.
- 3) The defense afforded by subsection (2) of this section requires that for the following defendants, the reasonable belief be as indicated:
 - a) For the defendant charged with Rape of a Child in the First Degree, that the victim was at least twelve, or was less than twenty-four months younger than the defendant;
 - b) For the defendant charged with Rape of a Child in the Second Degree, that the victim was at least fourteen, or was less than thirty-six months younger than the defendant;
 - c) For the defendant charged with Rape of Child in the Third Degree, that the victim was at least sixteen, or was less than forty-eight months younger than the defendant;
 - d) For a defendant charged with Sexual Misconduct with a Minor in the First Degree, that the victim was at least sixteen, or was less than sixty months younger than the defendant;
 - e) For a defendant charged with Child Molestation in the First Degree, that the victim was at least twelve, or was less than thirty-six months younger than the defendant;
 - f) For a defendant charged with Child Molestation in the Second Degree, that the victim was at least fourteen, or was less than thirty-six months younger than the defendant;
 - g) For a defendant charged with Child Molestation in the Third Degree, that the victim was at least sixteen, or was less than thirty-six months younger than the defendant;
 - h) For a defendant charged with Sexual Misconduct with a Minor in the Second Degree, that the victim was at least seventeen, or was less than sixty months younger than the defendant.

8.25.015 - Rape in the First Degree (Felony Rape)

Any person who engages in sexual intercourse with another person by means of forcible compulsion where the perpetrator or an accessory:

- 1) uses or threatens to use a deadly weapon or what appears to be a deadly weapon, or
 - 2) kidnaps the victim, or
 - 3) inflicts substantial bodily harm, or
 - 4) unlawfully enters into the building or vehicle where the victim is situated
- shall be guilty of a Class A offense.

8.25.020 - Rape in the Second Degree

Any person who engages in sexual intercourse with another person by means of forcible compulsion:

- 1) when the victim is incapable of consent by reason of being physically helpless or mentally incapacitated, or
 - 2) 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
 - 3) where there is threat of substantial unlawful harm to the property rights of the victim
- shall be guilty of a Class B offense.

8.25.025 - Rape of a Child in the First Degree

Any person who has sexual intercourse with another who is less than 12 years old and not married to the perpetrator and the perpetrator is at least twenty-four months older than the victim shall be guilty of a Class A offense.

8.25.030 - Rape of a Child in the Second Degree

Any person who has sexual intercourse with another who is at least 12 years old but less than fourteen years old and not married to the perpetrator and the perpetrator is at least thirty-six months older than the victim shall be guilty of a Class A offense.

8.25.035 - Rape of a Child in the Third Degree

Any person who has sexual intercourse with another who is at least fourteen years old but less than sixteen years old and not married to the perpetrator and the perpetrator is at least forty-eight months older than the victim shall be guilty of a Class B offense.

8.25.040 - Child Molestation in the First Degree

Any person who has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is less than twelve years old and not married to the perpetrator and the perpetrator is at least thirty-six months older than the victim shall be guilty of a Class A offense.

8.25.045 - Child Molestation in the Second Degree

Any person who has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is at least twelve years old but less than fourteen years old and not married to the perpetrator and the perpetrator is at least thirty-six months older than the victim shall be guilty of a Class A offense.

8.25.050 - Child Molestation in the Third Degree

Any person who has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is at least fourteen years old but less than sixteen years old and not married to the perpetrator and the perpetrator is at least forty-eight months older than the victim shall be guilty of a Class B offense.

8.25.055 - Sexual Misconduct with a Minor in the First Degree

Any person who has, or knowingly causes another person under the age of sixteen to have sexual intercourse with another person who is at least sixteen years old but less than eighteen years old and not married to the perpetrator, if the perpetrator is at least sixty months older than the victim, is in a significant relationship to the victim, and abuses that relationship in order to engage in or cause another person under the age of eighteen to engage in sexual intercourse with the victim shall be guilty of a Class B offense.

8.25.060 - Sexual Misconduct with a Minor in the Second Degree

Any person who has, or knowingly causes another person under the age of seventeen to have sexual intercourse with another person who is at least sixteen years old but less than eighteen years old and not married to the perpetrator, if the perpetrator is at least sixty months older than the victim, is in a significant relationship to the victim, and abuses that relationship in order to engage in or cause another person under the age of eighteen to engage in sexual contact with the victim shall be guilty of a Class C offense.

8.25.065 - Indecent Liberties

Any person who knowingly takes liberties, as the common sense of society would regard as indecent and improper, including but is not limited to:

- 1) Indecent assault;
- 2) Indecent exhibition;
- 3) Indecent exposure;
- 4) Indecent publications; and
- 5) Public indecency.

shall be guilty of a Class B offense.

8.25.070 - Fail to Register/Make Notification as a Sex Offender

Any person who, having been convicted in any court of competent jurisdiction of any of the offenses listed in this chapter or similar offenses or who is a registered sex offender in another jurisdiction:

- 1) fails to register himself and his address with the Stillaguamish Tribal Police within seven (7) days of taking residence within the jurisdiction of the Stillaguamish Tribe, or
- 2) fails to register himself and his address with the Stillaguamish Tribal Police within seven (7) days of enactment of this chapter if currently residing within the jurisdiction the Stillaguamish Tribe, or
- 3) fails to register himself and the address he is visiting with the Stillaguamish Tribal Police if visiting within the jurisdiction the Stillaguamish Tribe for a period exceeding seven (7) days, or

- 4) fails to notify the Stillaguamish Tribal Police of himself and the address he is visiting if visiting within the jurisdiction of the Stillaguamish Tribe for a period exceeding twenty-four (24) hours but less than seven (7) days, or
- 5) fails to register himself and his address within seven (7) days of being convicted if already residing within the jurisdiction of the Stillaguamish Tribe, shall be guilty of a Class C offense.

At the time of registration, the offender must:

- 1) provide a copy of any required registration form from the jurisdiction of his former residence or conviction;
- 2) provide to the Stillaguamish Tribal Police on the required form the following information:
 - a) full name and all aliases the offender has used or under which he has been known;
 - b) complete description including height, weight, hair, eyes, date of birth, driver's license number, and social security number;
 - c) a current photograph (a new photograph may be taken at the police department);
 - d) name of each offense to which the offender pled guilty or was found guilty; the name used at the time of conviction; the names of victims and witnesses to each offense; where each offense was committed; and the name of the court and location of jurisdiction;
 - e) the name and location of each jail, facility, or institution to which the offender was committed for each offense; and
 - f) physical address and telephone number of current residence and place of employment.

Any person subject to this section must continue to comply with its requirements FOR LIFE while residing on lands of the Stillaguamish Tribe or within Reservation boundaries. The offender may petition the Tribal Court to release him from this requirement after a period of fifteen (15) years from the last date of discharge from probation, parole, or release from incarceration PROVIDED that the offender has been free of violations of this chapter during the fifteen year period.

The Stillaguamish Tribal Police, for its part, is required to maintain a registry of any and all sex offenders, subject to this Title, who are living or residing within the jurisdiction of the Stillaguamish Tribe of Indians.

CHAPTER 8.30 – OFFENSES AGAINST PROPERTY

8.30.005 - Arson

Any person who:

- 1) willfully causes a fire or explosion with intent to damage property, or
- 2) knowingly causes a fire or explosion which damages a dwelling or other property, or
- 3) knowingly causes a fire or explosion and thereby places any person in danger, or
- 4) knowingly causes a fire or explosion and thereby causes death or injury to any person including a firefighter

shall be guilty of a Class A offense.

8.30.010 - Reckless Burning or Exploding

Any person who recklessly causes a fire or explosion, whether on his own property or that of another, and thereby places property at risk of damage shall be guilty of a Class B offense.

8.30.015 - Burglary

Any person who, with intent to commit a crime therein, enters or remains unlawfully in any building, structure, dwelling, or fenced area adjacent to such structure shall be guilty of a Class B offense.

In any prosecution for burglary, intent to commit an offense may be inferred from the act of unlawfully entering or remaining. It is the burden of the defendant to show the trier of fact that the act was committed without criminal intent.

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.

8.30.020 – Criminal Trespass

Any person who knowingly enters lands or structures of another:

- 1) which are posted, fenced, or otherwise enclosed in a manner designed to exclude intruders, or
- 2) who refuses to leave immediately on request of the owner, occupant, or caretaker of the property, or on request of a law enforcement officer, or
- 3) who refuses to comply with a "No Loitering" sign, or
- 4) who refuses to comply with an order of exclusion or banishment from the lands of the Stillaguamish Tribe of Indians issued by the Tribal Council or any court of competent jurisdiction,

shall be guilty of a Class C offense.

8.30.022- Civil Trespass

Any person who enters or remains on Stillaguamish lands, including but not limited to the Stillaguamish Tribe's gaming facility and surrounding lands, with no legal right to do so after being ordered to remove himself/herself from said lands or structures, shall be guilty of a Level 3 Infraction.

This section shall also apply to any other property (whether commercially-developed or not) under the jurisdiction or control of the Stillaguamish Tribe.

A second violation of this Section will result in a criminal citation for a Class C offense.

8.30.025 - Desecration of Religious Sites

Any person who removes artifacts or other items from any burial grounds or from any traditional, sacred, or religious area of the Stillaguamish Tribe of Indians, or otherwise desecrates in any fashion such grounds or areas shall be guilty of a Class B offense.

8.30.030 - Embezzlement

Any person who, with intent to deprive the owner of his property, and who has lawful custody or control of the owner's property, appropriates or converts such property to his own use shall be guilty of a Class C offense.

8.30.035 - Extortion

Any person who knowingly obtains or attempts to obtain property or services of another, including sexual favors, by use of threat shall be guilty of a Class B offense.

8.30.040 - Forgery

Any person who, with intent to injure or defraud:

- 1) falsely makes, completes, or alters a written instrument, or
- 2) possesses, utters, offers, disposes of, or puts off as true a written instrument which he knows to be forged

shall be guilty of a Class B offense.

8.30.045 - Fraud

Any person who obtains money, property, or any other thing of value by deceit, willful misrepresentation, or false statement shall be guilty of a Class B offense.

8.30.050 - Malicious Mischief in the First Degree

Any person who knowingly:

- 1) causes damage to property of another in an amount exceeding \$250, or
- 2) causes damage to, or tampers with, an emergency vehicle or property of the Stillaguamish Tribe, or a public utility, or mode of public transportation, power, or communication

shall be guilty of a Class C offense.

8.30.055 - Malicious Mischief in the Second Degree

Any person who knowingly:

- 1) causes damage to property of another in an amount less than \$250, or
 - 2) writes, paints, or draws any inscription, figure, or mark of any type on any public or private building or other structure or any real property owned by another person without authorization to do so, or
 - 3) removes, alters, or defaces any sign of the Stillaguamish Tribe of Indians or any sign of the state or federal government without authorization to do so,
- shall be guilty of a Level 1 infraction.

8.30.060 – Unlawful Taking

Any person who shall deprive a rightful owner of goods, services, or property valued at under \$100 shall be guilty of a Level 3 Infraction.

8.30.065 - Obscuring the Identity of a Machine

Any person who knowingly:

- 1) obscures the manufacturer's serial number or any other distinguishing identification number or mark upon any vehicle, machine, engine, apparatus, appliance, firearm, or other device with intent to render it unidentifiable, or
- 2) possesses a vehicle, machine, engine, apparatus, appliance, firearm, or other device held for sale knowing that the serial number or other identification number or mark has been obscured

shall be guilty of a Class C offense.

8.30.070 - Obtain Signature by Deception or Duress

Any person who, with intent to defraud or deprive, causes another to sign or execute a written instrument by employing deception or coercion shall be guilty of a Class B offense.

8.30.075 - Possessing or Trafficking in Stolen Property

Any person who possesses, receives, conceals, sells, or aids in receiving or concealing property that he knew or reasonably should have known was obtained by any unlawful means shall be guilty of a Class C offense.

8.30.080 - Theft in the First Degree

Any person who, with intent to deprive the owner of use or possession of property:

- 1) takes property of another valued at over \$250, or
- 2) uses services of another valued at over \$250 without paying or compensating the owner, or
- 3) takes a credit card, debit card, or other access device belonging to another, or
- 4) uses the credit card, debit card, or other access device without authorization of the owner, or
- 5) takes a firearm belonging to another person

shall be guilty of a Class C offense.

8.30.085 - Theft in the Second Degree

Any person who, with intent to deprive the owner of use or possession of property:

- 1) takes property of another valued at less than \$250, or
- 2) uses services of another valued at less than \$250 without paying or compensating the owner

shall be guilty of a Class D offense.

8.30.087 – Interference with Property

Any person who, having no right to do so, nor reasonable grounds to believe he or she has such a right, intentionally tampers with or interferes with the property of another shall be guilty of a level 2 infraction.

8.30.090 - Unlawful Issuance of Checks

Any person who, with intent to defraud, makes, draws, utters, or delivers to another person any check or draft on a bank or other depository for the payment of money, knowing at the time of such drawing or delivery that he does not have sufficient funds in, or credit with, said bank or depository to cover the check or draft in full upon its presentation, shall be guilty of a Level 2 Infraction.

Any person who shall violate this section in order to gain credit or other means of money used to gamble while at the Stillaguamish operation shall be guilty of a Level 1 Infraction, and may be referred to the U.S. Attorney's Office for further criminal prosecution.

8.30.095 - Computer Trespass

Any person who, without authorization, intentionally gains access to a computer system or electronic database of another shall be guilty of a Level 3 Infraction.

8.30.100 - Identity Theft

No person may knowingly use or knowingly transfer a means of identification of another person with the intent to commit, or aid or abet, any unlawful activity harming or intending to harm the person whose identity is used, or for committing any felony.

For purposes of this section, "means of identification" means any information or item that is not describing finances or credit, but is personal to or identifiable with any individual or other person, including any current or former name of the person, telephone number, and electronic address or identifier of the individual or any member of his or her family, including the ancestor of such person; any information relating to a change in name, address, telephone number, or electronic address or identifier of the individual or his or her family; any social security, driver's license, or tax identification number of the individual or any member of his or her family; and other information which could be used to identify the person, including unique biometric data.

Violation of this section is a Class B offense. Any person found guilty of violating this section may also be held liable for the \$500 or actual damages, including costs to repair the person's credit record, whichever is greater, and reasonable attorney's fees.

CHAPTER 8.35 - OFFENSES AGAINST THE COMMUNITY PEACE, MORALS, SAFETY, AND WELFARE

8.35.005 - Definitions

"Dangerous weapon" shall include, but not be limited to sling shot, sand club, metal knuckles, spring blade or gravity knife, butterfly knife, dagger, dirk, pistol, throwing stars, nun-chu-ka sticks, any air gun or BB gun, a firearm silencing device, gun of any type, or any other weapon capable of producing bodily harm.

"Firearm" is defined as including, but not limited to, any such projectile-firing device as revolvers, pistols, rifles, pellet guns, BB guns, air rifles, bow and arrow, crossbow, or dart gun.

8.35.010 - Adulteration of Food, Drug, Drink

Any person who knowingly manufactures, sells, or offers for sale, or intentionally keeps any food, drug, or drink which is adulterated with a harmful substance, or which, because of a defect in its manufacturing process, is harmful when ingested shall be guilty of a Class C offense.

8.35.015 - Terrorist Threat

Any person who, with intent to alarm the person(s) to whom the threat is communicated and regardless of whether the threat is true:

- 1) threatens to bomb or otherwise injure any public or private school building, any place of worship or public assembly, any Tribal governmental property, or any building, common carrier, or structure, or any place used for human occupancy, OR
- 2) communicates or repeats any information concerning such a threatened bombing or other act likely to result in injury, death or property damage

shall be guilty of a Class C offense.

8.35.020 - Carry Concealed Firearm or Other Weapon

Any person who knowingly conceals a firearm or other dangerous weapon upon his person or within the passenger compartment of any vehicle, without a valid permit issued by the Stillaguamish Tribe or other competent jurisdiction within the state of Washington shall be guilty of a Class C offense.

Law Enforcement may seize any weapon that is being held or concealed in violation of this ordinance. The weapon will be returned pursuant to the violator settling the violation in Tribal Court at no cost. If the weapon is not reclaimed within 30 days or the violator fails to appear in Tribal Court to settle the violation, the weapon shall be forfeited to the Tribal police department. The weapon shall then be subject to sale or disposal consistent with agency procedures.

8.35.025 - Unlawful Discharge of Firearm

Any person who discharges any firearm or other device which propels a projectile capable of causing injury in any manner:

- 1) creating a nuisance or hazard, or
- 2) from or across any road, or
- 3) at any gathering of people, or

4) from a motor vehicle
shall be guilty of a Class B offense.

8.35.030 - Unlawful Display of a Weapon

Any person who carries, displays, exhibits, or draws any firearm or other weapon apparently capable of producing bodily harm in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of others shall be guilty of a Class C offense.

8.35.035 - Unlawful Possession of a Firearm

Any person who possesses a firearm and:

- 1) has one or more outstanding warrants for a crime of violence, including domestic violence, from any court of competent jurisdiction, or
- 2) has been convicted by any court of competent jurisdiction of an attempt or commission of a crime of violence, including domestic violence, or
- 3) has been convicted by any court of competent jurisdiction of a felony-level crime against persons, or
- 4) has been charged or is awaiting sentencing for or on appeal from conviction of a crime of violence, including domestic violence, in any court of competent jurisdiction, or
- 5) has been ruled mentally incompetent by any court of competent jurisdiction, or
- 6) is under eighteen (18) years of age and not under the direct supervision of an adult

shall be guilty of a Class B offense

8.35.040 - Cruelty to Animals

Any person who abandons, neglects, tortures, needlessly annoys, or cruelly mistreats any animal shall be guilty of a Level 3 Infraction.

Any person who commits a second violation of this section, or who commits any violation resulting in the death of animal, shall be guilty of a Level 2 Infraction.

8.35.042 – Interfering with Guide Dog or Service Animal (Amended by resolution # 2007/059)

Any person who has received notice that his or her behavior is interfering with the use of a dog guide or service animal, including any law enforcement service animal, who continues with reckless disregard to interfere with the use of a guide dog or service animal by obstructing, intimidating, or otherwise jeopardizing the safety of the guide dog or service animal is guilty of a Level 2 Infraction or a Level 1 infraction in the case of a law enforcement service animal.

Any person who recklessly injures, disables, or causes the death of a guide dog or service animal shall be guilty of a Level 1 Infraction.

Any person who recklessly injures, disables, or causes the death of a law enforcement or search and rescue service animal shall be guilty of a civil infraction with a \$3000.00 penalty.

The guide dog or service animal may be privately owned or may be the service animal of a public or law enforcement agency used for any purpose.

A person convicted under this section may also be required by the Court to make restitution for damages, including incidental and consequential expenses incurred by the owner of the animal as well as replacement and/or training costs.

8.35.045 - Disorderly Conduct

Any person, whether in a public or private location (including his own residence) who:

- 1) intentionally uses words or conduct in an effort to provoke another person to assault anyone; or
- 2) engages in a physical fight with another person where the combat is mutual; or
- 3) encourages or assists in provoking a dog or other animal to attack another person or animal, unless in lawful protection of any person or property; or
- 4) without lawful authority, intentionally interferes with the participation or enjoyment by another person of a funeral, religious or fraternal gathering, sporting event, bingo or other Tribal business activity, Tribal Court proceeding, Tribal festival or event, or any other public and lawful community gathering or meeting; or
- 5) repeatedly screams, yells, or otherwise makes loud noises at anytime of the day to the point where the peace and tranquility of the public is disrupted; or
- 6) between the hours of 10 pm to 6 am Sunday night through Friday morning or 12 pm to 6 am Friday night through Sunday morning, makes or allows any loud noises, voices, or music to come from his residence or vehicle that are unreasonable or to the point where neighbors are unable to sleep; or
- 7) operates a motor vehicle so as to allow the vehicle's tires to squeal or needlessly spray debris, unless attempting to free the vehicle from a stuck position; or
- 8) repeatedly "revs" the engine of a motor vehicle, unless necessary for the purposes of warming the engine or repairing the vehicle shall be guilty of a Level 3 Infraction.

Any second violation of this section shall result in a criminal charge, and any person found to have committed a second violation shall be guilty of a Class D Offense.

Under subsections 5 and 6, a second offense involving loud stereo equipment and/or music may result in confiscation of the equipment by Tribal law enforcement. Said equipment shall be converted for use by the Stillaguamish Tribe. The defendant may request a hearing in Tribal Court to challenge the confiscation. Request for hearing must be made within ten (10) days after confiscation of the equipment. Failure to make a request for hearing within ten days shall constitute a waiver of right to a hearing on the part of the defendant.

8.35.047 – Aggressive Begging / Panhandling

As used in this section:

"Bodily harm" means physical pain, or an impairment or physical condition;

"Hinder or obstruct" means to walk, stand, sit, or lie in such a manner as to block or attempt to block or restrict passage by others or to require persons approaching to take evasive action to avoid physical contact;

"Public place" is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and buildings open to the general public, including those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

"Beg" means to stop or accost others, or direct persons or animals to stop or accost others, and to ask for money whether by words, bodily gestures, signs, or other devices.

Any person who:

- 1) Begs in a manner that hinders or obstructs the free passage of any person in a public place; or
 - 2) By physical action while in the act of begging, intentionally causes or attempts to cause another person to reasonably fear imminent bodily harm or the commission of a criminal act upon their person, or upon property in their immediate possession
- shall be guilty of a Level 4 Infraction. A second violation of this section shall be a Level 3 Infraction, and may subject the guilty party to a permanent ban from all lands owned by or within the jurisdiction of the Stillaguamish Tribe of Indians.

8.35.050 - Failure to Report or Control a Fire

Any person who knows or has reason to believe a fire is endangering life or property and fails to make a prompt report to the person or organization responsible for responding to fires, or any person who is under legal or contractual duty to prevent or combat fire who breaches that duty, shall be guilty of a Level 3 Infraction.

Any person who violates this section and as the result of said violation causes preventable injury to another person, animal or property, shall be guilty of a Class C offense.

8.35.055 - False Reporting

Any person who, with knowledge that the information reported, conveyed, or circulated is false, initiates or circulates a false report, alarm, or warning of an alleged occurrence or impending occurrence of a fire, explosion, crime, catastrophe, or emergency knowing that such a false report is likely to:

- 1) cause the evacuation of a building, place or assembly, or transportation facility, or
- 2) interfere with the provision of services by law enforcement, fire, or emergency medical personnel, or
- 3) interfere with the detainment, arrest, citation, or filing of criminal charges against any person including himself

shall be guilty of a Level 3 Infraction.

8.35.060 - Maintaining a Public Nuisance

Any person who shall act in such a manner or permit his property to fall in to such condition as to annoy, injure, or endanger the safety, health, comfort, or property of his neighbors or others shall be guilty of a Level 4 Infraction. A second violation shall result in a Level 3 Infraction. The Tribal Court may order removal or remedy of the nuisance by the offender.

8.35.065 - Opening Sealed Letter

Any person who willfully opens or reads, or causes to be opened or read, any sealed letter, message, or telegram intended for another person, or publish the whole or any portion of such message, letter, or telegram, knowing it to have been opened or read without authority, shall be guilty of a Level 4 Infraction.

8.35.070 - Prostitution

Any person who shall offer or agree to engage in any sexual contact or other sexual activity with another for a fee or any consideration, or who shall procure a prostitute for another, or who

shall knowingly receive any portion of the fee or any consideration shall be guilty of a Class C offense.

Any person who shall knowingly own, maintain, rent, or lease any house, room, tent, or any other place for the purpose of prostitution shall be guilty of a Class D offense.

8.35.075 - Public Indecency

Any person who openly exposes his or her genitalia (including but not limited to breasts) or the genitalia of another, or gestures in a manner knowing that such conduct is likely to cause reasonable affront or alarm, or urinates or defecates in public shall be guilty of a Level 3 Infraction. A second violation of this Section, or any violation in which the exposure targets a minor, shall constitute a Level 2 Infraction. Any subsequent violation may result in criminal prosecution for a Class C offense and/or a permanent exclusion (banishment) from all lands owned by or under the jurisdiction of the Stillaguamish Tribe of Indians.

8.35.080 - Riot

Any person who, acting with two or more other persons, knowingly and unlawfully uses or threatens to use force, or in any way participates in the use of such force, against any other person or against property shall be guilty of a Class C offense.

8.35.085 - Failure to Disperse

Any person who congregates with another group of two or more other persons and there are acts of conduct within that group which create a substantial risk of causing injury to any person or substantial harm to property; and who refuses or fails to disperse when ordered to do so by a law enforcement officer or other servant engaged in enforcing or executing the law, shall be guilty of a Level 3 Infraction. A second violation of this Section shall constitute a Level 2 Infraction, and may result in a permanent exclusion (banishment) from all lands owned by or under the jurisdiction of the Stillaguamish Tribe of Indians.

8.35.090 – Interference with Health Care Facilities or Providers

Except as otherwise protected by state, Tribal, or federal law, any person who alone or in concert with others willfully or recklessly interferes with access to or from a health care facility or willfully or recklessly disrupts the normal functioning of such facility by:

- 1) Physically obstructing or impeding the free passage of a person seeking to enter or depart from the facility or from the common areas of the real property upon which the facility is located;
- 2) Making noise that unreasonably disturbs the peace within the facility;
- 3) Trespassing on the facility or the common areas of the real property upon which the facility is located;
- 4) Telephoning the facility repeatedly, or knowingly permitting any telephone under his or her control to be used for such purpose; or
- 5) Threatening to inflict injury on the owners, agents, employees, or property of the facility or knowingly permitting any telephone under his or her control to be used for such purpose

shall be guilty of a Level 3 Infraction. A second violation of this Section shall constitute a Level 2 Infraction, and may result in a permanent exclusion (banishment) from all lands owned by or under the jurisdiction of the Stillaguamish Tribe of Indians.

8.35.092 – Tampering with Security or Fire Monitoring Devices

Any person who, without lawful authority, causes or attempts to cause a security or fire monitoring device to be tampered with by moving, obstructing, covering, redirecting, unplugging, or in any other manner interferes with the proper operation of such devices shall be guilty of a Class D offense.

"Security or Fire Monitoring Device" shall include all cameras, video or audio monitors, sensors, control panels, security lights, recording devices, and all wires, antennas, and/or other electronic equipment attached to such devices at any location within the jurisdiction of the Stillaguamish Tribe.

Prosecution under the provisions of this section shall not prevent prosecution of the person under other sections of this code.

8.35.095 - Telephone Abuse

Any person who:

1) with intent to harass, intimidate, torment, or embarrass any other person shall make a telephone call to such other person:

- a) using any lewd, lascivious, profane, indecent, or obscene words or language, or suggesting the commission of any lewd or lascivious act; or
- b) anonymously or repeatedly or at an extremely inconvenient hour, whether or not conversation ensues; or
- c) threatens to inflict injury on the person or property of the person called or any member of his or her family or household; OR
- d) any person who refuses to surrender the use of a party line when the telephone is needed for an emergency

shall be guilty of a Level 4 Infraction. A second violation of this Section shall constitute a Level 3 Infraction. Any subsequent violations of this section may result in criminal charges for a Class D offense and may result in a permanent exclusion (banishment) from all lands owned by or under the jurisdiction of the Stillaguamish Tribe of Indians.

Any offense committed by use of a telephone as set forth in this section may be deemed to have been committed either at the place from which the telephone call or calls were made or at the place where the telephone call or calls were received.

CHAPTER 8.40 - ALCOHOL-RELATED OFFENSES

8.40.005 - Definitions

For the purposes of this Chapter, the following definitions apply:

"Consume" means the act of consuming alcohol, the condition of having consumed alcohol, and the condition of being under the influence of alcohol.

"Possession" means to have in one's actual physical control, or to have both the power and ability to exercise control even though the object is not under his direct physical control.

8.40.010 - Unauthorized Alcohol or Tobacco Sale

Any person who possesses, trades, transports, or manufactures any alcoholic beverage or tobacco product for sale within the territorial jurisdiction of the Stillaguamish Tribe of Indians without authorization from the Tribe shall be guilty of a Level 3 Infraction for the first civil offense, Level 2 for the second. Any finding of a third violation of this section may result in criminal (Class C) charges.

8.40.015 - Furnishing Alcoholic Beverage to a Minor

Any person who gives, sells, or trades any alcoholic beverage to a person under the age of twenty-one (21) years or fails to prevent or allows a person under the age of twenty-one (21) to consume an alcoholic beverage in a building he leases, owns, or rents, or upon other property under his control, or in a vehicle he owns or has control of shall be guilty of a Class A offense.

8.40.020 - Minor in Possession of Alcohol

Any person under the age of twenty-one (21) years who possesses, purchases, consumes, obtains, or sells any alcoholic beverage shall be guilty of a Level 4 Infraction. Any subsequent violation shall be a Level 3 Infraction. Evidence of consumption or intoxication shall be considered evidence of possession.

Exception for authorized possession, for a limited purpose: A person under the age of twenty-one (21) years possessing or delivering alcohol under the direction of an employer, in compliance with the laws and regulations of the Washington State Liquor and Cannabis Board, is not in violation of this offense.

8.40.025 - Public Intoxication

Any person who, while in a public place or area within the jurisdiction of the Stillaguamish Tribe, exhibits the physical signs of being under the influence of alcoholic beverage and makes a nuisance of himself before others shall be guilty of a Level 4 Infraction. A second violation shall be a Level 3 Infraction. Any subsequent violation may result in permanent exclusion from all lands owned by or under the jurisdiction of the Stillaguamish Tribe of Indians.

8.40.030 - Open and/or Consume Liquor in Public

Any person who, while in a public place or area within the jurisdiction of the Stillaguamish Tribe, has in his possession or control an open container holding alcoholic beverage and/or consumes alcoholic beverage shall be guilty of a Level 4 Infraction. A second violation shall be a

Level 3 Infraction. Any subsequent violation may result in permanent exclusion from all lands owned by or under the jurisdiction of the Stillaguamish Tribe of Indians.

THIS SECTION DOES NOT APPLY TO PERSONS LAWFULLY CONSUMING LIQUOR IN ANY LICENSED TRIBAL GAMING FACILITY.

8.40.035 – Unlawful possession of Liquor in Parks.

Any person who, while in any park or other public area within the jurisdiction of the Stillaguamish Tribe, where the possession of liquor is prohibited by rule or regulation, possesses any liquor shall be guilty of a level 4 infraction and such liquor shall be subject to confiscated by tribal law enforcement. Any subsequent violation may result in permanent exclusion from all lands owned by or under the jurisdiction of the Stillaguamish Tribe of Indians. Tribal law enforcement may require that any closed container that they reasonably suspect contains liquor be opened for inspection. If refused, the law enforcement officer may require that the party with the container leave the park.

CHAPTER 8.43 - MARIJUANA-RELATED OFFENSES

8.43.005 - Definitions

For the purposes of this Chapter, the following definitions apply:

"Consume" means the act of consuming marijuana by any means, the condition of having consumed marijuana, and the condition of being under the influence of marijuana.

"Marijuana" means all parts of the Cannabis, whether growing or not, with a THC concentration of greater than 0.3 percent on a dry weight basis, the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seeds of the plant which is incapable of germination.

"Marijuana concentrates" means products consisting wholly or in part of ht resin extracted from any part of the plant Cannabit and having a THC concentration greater than sixty (60) percent.

"Marijuana-infused products" means products that contain marijuana extracts and are intended for human use. The term "marijuana infused products" does not include useable marijuana.

"Possession" means to have in one's actual physical control, or to have both the power and ability to exercise control even though the object is not under his direct physical control.

"Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.

8.43.010 - Unauthorized Marijuana Manufacture, Delivery, or Sale

Any person who manufactures, processes, packages, delivers, distributes, or sells any marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product for sale within the territorial jurisdiction of the Stillaguamish Tribe of Indians shall be guilty of a Class B offense, unless

- a) the individual is acting in his official capacity as an employee of a wholly owned enterprise of the Tribe in accordance with the Stillaguamish Tribe of Indians Marijuana Code;
- b) the individual is growing marijuana for personal use in accordance with the Stillaguamish Tribe of Indians Marijuana Code; or,
- c) the individual is a designated provider who is delivering, distributing, or manufacturing marijuana, marijuana concentrates, or marijuana infused products to a qualifying patient in accordance with the Stillaguamish Tribe of Indians Marijuana Code.

8.43.015 - Furnishing Marijuana to a Minor

Any person who gives, sells, or trades any marijuana, marijuana concentrate, useable marijuana, or marijuana infused product to a person under the age of twenty-one (21) years or fails to prevent or allows a person under the age of twenty-one (21) to consume marijuana, marijuana concentrate, useable marijuana, or marijuana infused product in a building he leases, owns, or rents, or upon other property under his control, or in a vehicle he owns or has control of shall be guilty of a Class A offense.

8.43.020 - Minor in Possession of Marijuana

Any person under the age of twenty-one (21) years who possesses, purchases, consumes, obtains, or sells any marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product shall be guilty of a Class D offense. Any subsequent violation shall be a Class C offense. Evidence of consumption or intoxication shall be considered evidence of possession.

8.43.025 - Consume Marijuana in Public

Any person who, while in a public place or area within the jurisdiction of the Stillaguamish Tribe, consumes marijuana, marijuana concentrates, useable marijuana, or a marijuana-infused product shall be guilty of a Level 4 Infraction. A second violation shall be a Level 3 Infraction. Any subsequent violation may result in permanent exclusion from all lands owned by or under the jurisdiction of the Stillaguamish Tribe of Indians.

8.43.030 – Unlawful possession of Marijuana

Any person who possesses marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product in amounts that exceed those expressly permitted by the Stillaguamish Marijuana Code within the territorial jurisdiction of the Stillaguamish Tribe of Indians shall be guilty of a Level 4 Infraction.

8.43.035 – Unlawful possession of Marijuana in Public Place

Any person who, while in any park or other public area within the jurisdiction of the Stillaguamish Tribe, where the possession of marijuana, marijuana concentrates, useable marijuana, or a marijuana-infused product is prohibited by rule or regulation, possesses any marijuana, marijuana concentrates, useable marijuana, or a marijuana-infused product shall be guilty of a level 4 infraction and such marijuana, marijuana concentrates, useable marijuana, or a marijuana-infused product shall be subject to confiscated by tribal law enforcement. Any subsequent violation may result in permanent exclusion from all lands owned by or under the jurisdiction of the Stillaguamish Tribe of Indians. Tribal law enforcement may require that any closed container that they reasonably suspect contains marijuana, marijuana concentrates, useable marijuana, or a marijuana-infused product be opened for inspection. If refused, the law enforcement officer may require that the party with the container leave the park.

CHAPTER 8.45 - DRUG-RELATED OFFENSES

8.45.005 - Definitions

1) All terms used in this chapter shall be given their commonly accepted meaning. If there is doubt as to the meaning of a term, the Court shall be guided by the Washington Uniform Controlled Substances Act - Title 69 RCW Chapter 69.50. Nothing in the chapter shall be construed to make illegal an act which is legal under the Uniform Controlled Substances Act. The version of the Uniform Controlled Substances Act attached to the Code is hereby incorporated by reference, to be referred to as indicated in the chapter.

2) "Possession" means to have in one's actual physical control, or to have both the power and ability to exercise control even though the object is not under his direct physical control.

3) Illegal Controlled Substances include, but are not limited to:

- a) cocaine in any form including, but not limited to, powder and rock or "crack,."
- b) depressants including, but not limited to, methaqualone, diazepam (valium), secobarbital,
- c) stimulants including, but not limited to, any form of amphetamine,
- d) opiates including, but not limited to, opium, heroin, morphine, methadone, and codeine,
- e) hallucinogens including, but not limited to, DMA, LSD, PCP, mescaline, peyote (peyote is NOT considered a controlled substance when used in conjunction with a Tribally-authorized religious ceremony) and psilocybin mushrooms.

4) "Drug Paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, storing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. These items include, but are not limited to:

- a) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls,
- b) water pipes,
- c) carburetion tubes and devices,
- d) smoking and carburetion masks,
- e) roach clips (objects used to hold burning material)
- f) miniature cocaine spoons and cocaine vials,
- g) chamber pipes,
- h) carburetor pipes,
- i) electric pipes,
- j) air-driven pipes,
- k) chillums,
- l) bongs,
- m) ice pipes or chillers, or
- n) soda cans or other vessels used to facilitate the smoking, ingestion, injection or other use of an illegal controlled substance
- (o) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances;

- (p) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (q) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (r) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana;
- (s) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (t) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (u) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
- (v) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;
- (w) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:
 - (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

8.45.010 - Proof of Chemical Composition

The chemical composition of a substance may be proven by any acceptable method of identification including, but not limited to, field testing by a trained law enforcement officer, physical observation and visual identification by a trained law enforcement officer, or by laboratory testing.

8.45.015 - Unlawful Possession of Prescription Medication

Any person who possesses prescription medication without a valid, lawful prescription for a legitimate medical purpose or pursuant to a lawful, licensed business activity shall be guilty of a Level 3 Infraction.

8.45.020 – Prescription Fraud

Any person who obtains or attempts to obtain a controlled substance or prescription medication or procures or attempts to procure the administration of a controlled substance:

- 1) by fraud, deceit, misrepresentation, or subterfuge; or
- 2) by forgery or alteration of a prescription or any written order; or
- 3) by the concealment of material fact; or
- 4) by the use of a false name or the giving of a false address

shall be guilty of a Class B offense.

8.45.025 -

REPEALED.

8.45.030 - Possession of Controlled Substance

- 1) Any person who manufactures, delivers, or possesses with intent to deliver an illegal controlled substance as defined in RCW 69.50.101, unless otherwise authorized by this code, or
- 2) Any person who manufactures, delivers, or possesses with intent to deliver an imitation substance in lieu of an illegal controlled substance, or
- 3) Any person who possesses any illegal controlled substance, , as defined in RCW 69.50.101, unless otherwise authorized by this Code

shall be guilty of a Class B offense

8.45.035 - Possession of Drug Paraphernalia

Possession of Drug Paraphernal Any person who uses, delivers, possesses, or has under his control, drug paraphernalia as defined in 8.45.005 - Paragraph 4 Drug Paraphernalia, shall be guilty of a Class A offense and shall be subject to up to 365 days in jail, and a fine up to \$5000 and/or both.

8.45.040 – Unlawful Inhalation of Toxic Fumes

As used in this section, the phrase “substance containing a solvent having the property of releasing toxic vapors or fumes” shall mean and include any substance containing one or more of the following chemical compounds:

- 1) Acetone;
- 2) Amylacetate;
- 3) Benzol or benzene;
- 4) Butyl acetate;
- 5) Butyl alcohol;
- 6) Carbon tetrachloride;
- 7) Chloroform;
- 8) Cyclohexanone;
- 9) Ethanol or ethyl alcohol;
- 10) Ethyl acetate;
- 11) Hexane;
- 12) Isopropanol or isopropyl alcohol;
- 13) Isopropyl acetate;
- 14) Methyl “cellosolve” acetate;
- 15) Methyl ethyl ketone;
- 16) Methyl isobutyl ketone;
- 17) Toluol or toluene;
- 18) Trichloroethylene;
- 19) Tricresyl phosphate;
- 20) Xylol or xylene; or

Any other solvent, material substance, chemical, or combination thereof, having the property of releasing toxic vapors.

It is unlawful for any person to intentionally smell or inhale the fumes of any type of substance identified above or to induce any other person to do so, for the purpose of causing a condition of, or inducing symptoms of intoxication, elation, euphoria, dizziness, excitement,

irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses of the nervous system, or for the purposes of, in any manner, changing, distorting, or disturbing the oral, visual, or mental processes.

Violation of this section is a Class D offense.

This section shall not apply to the inhalation of any anesthesia for medical or dental purposes, or any inhalation devices necessary for medical conditions (e.g. asthma).

CHAPTER 8.50 - OFFENSES AGAINST TRIBAL GOVERNMENT

8.50.005 - Bail Jumping

Any person, having been released by court order or admitted to bail with the requirement of a subsequent personal appearance before the Stillaguamish Tribal Court, who knowingly fails without lawful excuse to appear as required shall be guilty of a Class C offense.

8.50.010 - Bribery

Any person who offers or gives money, property, services, or anything else of value to any elected or appointed official, employee, or juror of the Stillaguamish Tribe of Indians with intent to influence his decision on any official matter, or any official who accepts or solicits such an offer shall be guilty of a Class B offense.

8.50.015 - Contempt of Court - Criminal

Any person who engages in disorderly, contemptuous, or insolent behavior during the sitting of the Tribal Court, or who disobeys the lawful process or order of the Tribal Court including, but not limited to, sentencing orders, or who disobeys any order of a Tribal Court Judge arising from conduct on Court premises shall be guilty of Contempt of Court, and shall be subject to up to 365 days in jail, and a fine up to \$5000 and/or both.

8.50.015a - Contempt of Court - Civil

Any person who engages in disorderly, contemptuous, or insolent behavior during the sitting of the Tribal Court, or who disobeys the lawful process or order of the Tribal Court, or who disobeys any order of a Tribal Court Judge, or who fails to perform an act or duty which is yet in the power of the person to perform, shall be guilty of Civil Contempt of Court. The Court may order imprisonment until the person has performed the act or duty, not to exceed 12 months per incident, and until the person has paid any contempt fine imposed by the Court up to \$5,000.00 per incident.

8.50.020 - Escape

Any person in lawful custody for any offense who escapes or assists another to escape from lawful custody shall be guilty of:

- 1) a Class B offense if the original offense is a Class A or Class B offense.
- 2) a Class C offense if the original offense is a Class C or Class D offense.

8.50.025 - False Arrest

Any person who knowingly makes or causes to be made any unlawful arrest or false charge against another person shall be guilty of a Class C offense.

8.50.030 - Flight to Avoid Prosecution

Any person who willfully and knowingly flees from the jurisdiction of the Stillaguamish Tribe of Indians to avoid prosecution shall be guilty of a Class B offense.

8.50.035 - Fugitive

Any person who knowingly flees another jurisdiction when a warrant has been issued for their arrest by a court of that jurisdiction and is then found within the jurisdiction of the Stillaguamish Tribe shall be guilty of a Class C offense.

8.50.040 - Intimidating or Influencing a Juror

Any person who, by use of threat or bribe, attempts to influence the opinion, decision, or vote of a Juror in the Court or induce the Juror to be absent shall be guilty of a Class B offense.

8.50.045 - Intimidating or Influencing a Witness

Any person who, by use of threat or bribe, attempts to influence the testimony of a witness in any official proceeding or induce the witness to be absent from the proceeding shall be guilty of a Class B offense.

8.50.050 - Intimidating a Public Officer

Any person who uses force or violence against, or who threatens a public officer shall be guilty of a Class B offense.

8.50.055 - Making False Statement to a Public Servant

Any person who knowingly makes a false or misleading statement, either oral or written, to a public servant, and that statement is reasonably likely to be relied upon by the public servant in the discharge of his lawful duties, shall be guilty of a Level 2 Infraction. Any second violation of this section shall result in a criminal charge, and any person found to have committed a second violation shall be guilty of a Class C Offense.

8.50.060 - Misuse of Funds

Any person who appropriates property or funds not his own, including Tribal funds, for his own use or otherwise handles same in a manner not authorized by law shall be guilty of a Class B offense.

8.50.065 - Official Misconduct

Any public servant who, with intent to obtain a benefit or to deprive another person of a lawful right or privilege, intentionally commits an unauthorized act under color of law or intentionally refrains from performing a duty imposed upon him by law is guilty of a Class C offense.

8.50.070 - Obstructing a Public Servant

1) Any person who, without force, hinders, delays, or otherwise interferes with a law enforcement officer, firefighter, ambulance attendant, emergency medical technician, or Tribal Council member who is engaged in his lawful duty shall be guilty of a Level 3 Infraction.

2) Any person who obstructs a public service with the use of force shall be guilty of a Class B offense.

8.50.075 - Perjury

Any person who knowingly makes a false statement under oath in any proceeding in the Court or any other official hearing of the Stillaguamish Tribe of Indians or who introduces another person to do so shall be guilty of a Level 2 Infraction.

8.50.080 - Possession of Weapon in Tribal Court

Any person who knowingly brings any weapon into Tribal Court shall be guilty of a Level 2 Infraction. Law enforcement officers are exempted from this chapter.

8.50.082 – Possession of Weapon within Certain Tribal Facilities

Any person other than an authorized law enforcement officer, court officer or an on-duty Stillaguamish Tribal security or gaming agent authorized to possess a weapon at his site of employment in writing, who knowingly brings into any gaming facility or other tribal facility where the possession of weapons or hunting is prohibited any class of firearm shall be guilty of a Level 1 Infraction.

8.50.085 - Refusal to Aid Officer

Any person who fails to respond to a request for assistance by a law enforcement officer, ambulance attendant, emergency medical technician, or firefighter shall be guilty of a Class C offense.

8.50.090 - Rendering Criminal Assistance

Any person who knowingly assists another to avoid being apprehended or prosecuted for any offense by:

- 1) harboring or concealing such person; or
- 2) warning such person of impending discovery or apprehension; or
- 3) providing such person with money, transportation, disguise, refuge, or other means of avoiding discovery or apprehension; or
- 4) preventing or obstructing, by use of force, deception, or threat, anyone from performing an act that might aid in the discovery or apprehension of such person; or
- 5) concealing, altering, or destroying any physical evidence that might aid in the discovery or apprehension of such person

shall be guilty of a Class C offense.

8.50.095 - Resisting Arrest

Any person who shall willfully and knowingly resist or assist another person to resist lawful arrest by struggling or trying to pull themselves or others away from the party making the arrest, without assaulting or attempting to assault another person, shall be deemed guilty of a level 1 infraction. If any assault or other violence is used to resist or assist another person to resist lawful arrest shall be deemed guilty of a Class C offense.

8.50.100 - Resisting a Lawful Order

Any person, who fails or refuses to obey a lawful order issued by a law enforcement officer, whether the order is verbal or written, shall be guilty of a level 1 infraction.

8.50.105 - Tampering with Evidence

Any person who, having reason to believe that an official proceeding is pending or about to be instituted and acting without lawful authority, destroys, mutilates, conceals, removes, alters, or fabricates any physical evidence or record with intent to impair its appearance, character, or availability in such proceeding shall be guilty of a Class C offense.

8.50.110 - Trading in Special Influence

Any person who participates in an agreement in which a Tribal official, employee, or other public official confers some unauthorized or illegal benefit on another in exchange for money, property, services, or other gain or advantage shall be guilty of a Class B offense.

8.50.115 – Unlawful Repossession and Bail Enforcement Activities:

Any person who, without lawful authority from the Stillaguamish Tribe of Indians, enters the jurisdiction of the Stillaguamish Tribe and engages in the activities of property or vehicle repossession shall be guilty of a Level 4 Infraction.

Any person who, without lawful authority from the Stillaguamish Tribe of Indians, enters the jurisdiction of the Stillaguamish Tribe and engages in the activity of bail enforcement or "bounty hunting" shall be guilty of a Level 3 Infraction.

Any person who, without lawful authority from the Stillaguamish Tribe of Indians, enters the jurisdiction of the Stillaguamish Tribe and engages in bail enforcement activity resulting in the detention of another person or involves the display or use of any law enforcement related equipment or markings that give the impression of an official or governmental status shall be guilty of a Level 2 Infraction.

"Bail Enforcement Activities" includes any activity, to include surveillance, conducted for the purposes of bail enforcement or "bounty hunting" regardless where the actual apprehension takes place.

For the purposes of this section "specific permission" is defined as the possession of a written instrument, issued and signed by an authorized tribal official and has been filed with the tribal court that is immediately available for display to the person subject to the repossession or bail enforcement activities, or any law enforcement officer upon demand.

Nothing in this section shall prevent the lawful activities by any law enforcement or criminal justice agency with jurisdiction upon the lands of the Stillaguamish Tribe of Indians nor shall it prevent a criminal justice or law enforcement agency without jurisdiction or bail enforcement officer or bail bonding company from filing a formal request with the tribal court requesting the apprehension of a fugitive from justice by tribal law enforcement officers.

CHAPTER 8.55 - MISCELLANEOUS OFFENSES

8.55.005 - Coercion

Any person who, by means of a threat or assault, compels another to do an act, or to refrain from doing an act, against the latter's will, shall be guilty of a Class C offense.

8.55.010 - Criminal Attempt

Any person who, with intent to commit a specific crime, does any act which is a substantial step toward committing that crime shall be guilty of an offense one Class lower than the Class assigned to the crime attempted. The penalty assigned to Criminal Attempt shall be no lower than Class D.

8.55.015 - Criminal Conspiracy

Any person who agrees with one or more persons to engage in or cause the performance of any act that would constitute an offense if performed, and any one of the persons involved in the agreement takes a substantial step towards the commission of the act, shall be guilty of a Class C offense. It shall not be a defense that the person(s) with whom the accused is alleged to have conspired:

- 1) have not been prosecuted or convicted, or
- 2) have not been convicted of a different crime, or
- 3) is not subject to the jurisdiction of the Tribal court, or
- 4) lacked capacity to commit a crime.

8.55.020 – Impersonation

Any person who:

- 1) shall falsely identify himself, or who shall use the name of another person with the intent of wrongfully deceiving another for the purpose of gaining money, property, services, or other gain or advantage, OR
- 2) shall pretend to be a public servant or law enforcement officer and does an act with intent to convey the impression that he is acting in an official capacity and a reasonable person would believe the person is such an official or officer

shall be guilty of a level 1 infraction.

8.55.025 - Criminal Solicitation

Any person who offers to give money, property, services, or other gain or advantage to another with the intent to promote the commission of a crime shall be guilty of a Class C offense.

CHAPTER 8.60 GAMING (Chapter amended by resolution # 2007/050)

8.60.005 – Cheating Defined

As used in this chapter, "Cheating" means to:

- 1) Employ or attempt to employ any device, scheme, or artifice to defraud any other participant or any operator at a tribal gambling facility;
- 2) Engage in any act, practice, or course of operation as would operate as a fraud or deceit upon any other participant or any operator of a tribal gambling facility;
- 3) Engage in any act, practice, or course of operation while participating in a gambling activity with the intent of cheating any other participant or the operator to gain an advantage in the game over the other participant or operator of a tribal gambling facility; or
- 4) Cause, aid, abet, or conspire with another person to cause any other person to violate subsections 1 through 3 of this section.

8.60.010 – Gambling Facility Defined

As used in this chapter, "Gambling Facility" means any building, room, enclosure, vehicle, vessel or other place used or intended to be used for lawfully conducted gambling activity.

8.60.015 – Cheating in the First Degree

A person is guilty of cheating in the first degree if he or she engages in cheating as defined above and:

- 1) Knowingly causes, aids, abets, or conspires with another to engage in cheating; or
- 2) Holds a license or similar permit issued by the state of Washington to conduct, manage, or act as an employee in an authorized gambling activity or facility.

Cheating in the first degree is a Class A offense.

8.60.020 – Cheating in the Second Degree

A person is guilty of cheating in the second degree if he or she engages in cheating and his or her conduct does not constitute cheating in the first degree.

Cheating in the second degree is a Level 1 Infraction.

8.60.025—Unlawful Gaming Activity/Unfair Advantage

A person is guilty of Unlawful Gaming Activity/Unfair Advantage if he or she engages in cheating and his or her conduct does not constitute cheating in the first degree or cheating in the second degree.

Unlawful Gaming Activity/Unfair Advantage is a Level 2 Infraction.

8.60.030 – Working in a Gambling Facility without a License

Any person who works as an employee or agent or in a similar capacity for another person in connection with the operation of an activity for which a license is required by Stillaguamish and/or Washington State or Federal gambling authorities without having obtained the applicable license required shall be guilty of a Class C offense.

8.60.035 – Tribal Gambling Agents – Authority to Investigate, Detain, and Refer for Prosecution

A) A duly appointed and authorized Tribal Gaming Agent who has reasonable grounds to believe that a person has committed a violation of this chapter within or upon the premises of an authorized

gambling facility may detain, using reasonable force, the suspected person(s) for a reasonable period of time to investigate the suspected violation.

B) As used in this section:

1) "Reasonable Grounds" shall include, but not be limited to, the knowledge that the person(s) has committed the violation;

2) "Reasonable Force" shall mean only that non-lethal force used to detain the suspected person(s) and protect the Gaming Agents or others from assault;

3) "Reasonable Period of Time" shall mean the time necessary to permit the person(s) detained to make a statement or to refuse to make a statement, the time necessary to immediately examine or gather information from any security monitoring person or device or to immediately gather information from the gambling facility's employees or other witness relative to the violation of law, and the time necessary to summon a law enforcement officer and for such law enforcement officer to arrive.

C) If, in the event that a responding Tribal law enforcement officer believes that a violation of this chapter or any other violation of law has been committed, that officer may arrest the suspect(s) or issue a citation or notice of infraction. Whether or not the suspected person(s) is arrested, Tribal Gaming Agents must submit a written report for prosecutorial review.

D) Nothing in this chapter shall be construed as authorizing or implying the granting of any law enforcement authority or powers to Tribal Gaming Agents. Any request for tribal, county, state, or federal prosecution made by Tribal Gaming Agents must be made through the tribal law enforcement agency for criminal offenses or may be made directly to the prosecutor for civil offenses.

8.60.040 – Obstructing Tribal Gaming Agents

No person shall intentionally obstruct or attempt to obstruct a Tribal Gaming Agent authorized to enforce the provisions of this chapter by using or threatening to use physical force or by means of any unlawful act.

Any person who violates this section shall be guilty of a Level 2 Infraction if no physical force is used or Class C Offense for any second non-physical use of force, or for any use of physical force.

8.60.045 – Entering or Loitering at Gambling Facility For Unlawful Purposes

(Amended by resolution # 2006/032)

A) Any person under the age of 18 who enters, remains upon the grounds of, or loiters near any tribal gambling facility for the purposes of gambling or any other reason except for the purposes of lawful employment or other activity therein shall be guilty of a Level 3 Infraction.

B) Any person under the age of 21 who enters or remains upon the grounds of any tribal gambling facility and orders, receives, consumes, or has constructive possession of, or attempts to order, receive, or consume any intoxicating beverage shall be guilty of a Level 3 Infraction.

C) Any person who aids or assists any other person to violate the above subsections shall be guilty of a Level 4 Infraction.

D) Nothing in this section shall require or prevent the prosecution of a person(s) under separate sections of the Law and Order Code concerning the above unlawful activities.

CHAPTER 9.05 – GENERAL PROTECTION AGRICULTURAL, PARKS AND WILDERNESS LANDS (New section added by resolution # 2005/076)

9.05.005 - Purpose

The purpose of this chapter is to protect and regulate the wilderness, park and agricultural lands of the Stillaguamish Tribe, through effective management. These rules are in addition to other resource management rules.

9.05.010 - 1.04 Authority:

This Chapter is adopted pursuant to the following authority:

- (a) The reserved sovereignty of the Stillaguamish Tribe over its lands in order to provide for the economic security, health, safety and welfare of people residing on or doing business on or visiting Stillaguamish lands and to exercise the authority of the government of the Stillaguamish Tribe to enact legislation to protect these governmental interests;
- (b) Any authority delegated to the Stillaguamish Tribal government by the United States.
- (c) Nothing in this section grants any additional authority to the State of Washington or any political subdivision thereof upon Tribal lands not already granted.

9-05-015 - Definitions:

- 1. The term “Tribe” or “Tribal” shall mean the Stillaguamish Tribe of Indians.
- 2. The term “timber” shall mean any tree or other plant, alive or dead that is harvested or moved upon lands under the control of the Tribe for commercial or private purposes and said timber has not been processed into a finished product such as lumber. It also specifically includes any firewood that is gathered or harvested, except very small amounts of non-standing dead wood to be burned, when lawful, at an authorized tribal campsite for non-commercial activities.
- 3. The term “livestock” shall mean any animal regulated or inspected by the Washington State Department of Agriculture or any other domesticated animal raised for profit, held up for commercial sale, donation, slaughter or consumption.
- 4. The term “Authorized Officer” shall mean a Tribal Police Officer, Fish & Wildlife Officer, Brand Inspector or Park/Forest Ranger with duties to enforce all of the laws for the protection of Tribal lands and the identification, inspection, trespass, transportation of and to prevent the theft of timber and livestock. All Authorized Officers are Tribal law enforcement officers.
- 5. The term “brand” or “mark” shall mean any brand or mark applied to timber or livestock by any lawful means intended to establish ownership.

6. The term “misbrand” shall mean the application of any brand or mark not in compliance with this chapter or that which is meant to deceive.

7. The term “improperly transport” means the transport of any timber or livestock whether legally or illegally possessed, in a condition of ill health or without the proper ownership or transport documents.

8. The term “park” shall mean all lands under the authority of the Tribe, developed or undeveloped, designated or commonly used as recreational area and shall include all buildings used in conjunction with these activities. However the internal areas of any gaming facility shall not be considered a recreational area for the purposes of this title.

9.05.020 - Inspection and Enforcement of Agricultural Rules:

Any Authorized Officer may cause any timber or livestock being kept, transported or found upon the lands of the Tribe to be inspected to determine the lawful status and possession of, the satisfactory health of and proof of ownership and shall have authority to arrest without warrant or issue a notice of infraction to those found in the act of, or who they have reason to believe is guilty of, misbranding, defacing, altering or concealing any identifying marks upon, improperly harvesting, transporting, selling stolen or in unlawful possession of any unhealthy or improperly obtained timber or livestock. Any timber or livestock being held or transported in violation of this section may be impounded and held until the Tribal Court can make a disposition, to include who shall be responsible for the fees involved in an impoundment. The authorized officer shall always refer any prosecution of violations of this chapter to the Tribal Court when lawful to do so.

Any non-Indian person who transports any timber or livestock through the lands of the Tribe shall be subject to all laws or regulations adopted by the Washington State Department of Agriculture and Tribal authorities may refuse admittance of, or immediately remove any unlawfully transported timber or livestock from Tribal lands.

Any Authorized Officer may coordinate with and assist any tribal, federal or state brand inspector or forestry official on or off Tribal lands so as to facilitate the health, safety and welfare of livestock and timber. However, this assistance does not grant any additional authority to the Federal Government, State of Washington or any political subdivision thereof upon Tribal lands not already granted.

9.05.025 - Penalties:

Any person or company found to be in violation of this chapter or any other timber or livestock rules adopted under the authority of this chapter shall be guilty of a civil violation and upon conviction thereof, shall be assessed a penalty of no more than \$1000.00 nor less than \$500.00.

A lesser fine may be imposed by a judge upon any person or company who improperly transports timber or livestock of which they would otherwise have lawful possession and can clearly demonstrate no unlawful intent.

Each animal considered livestock or individual load of timber found to be in violation of this ordinance shall be considered a separate offense, however, any multiple violations of the livestock transporting rules in a single vehicle may be considered one offense if the violator otherwise would have lawful possession of the livestock.

Any person who refuses to submit to a lawful inspection or otherwise obstructs any authorized officer while enforcing the provisions of this chapter, or refuses to produce the necessary documentation or bill of sale for any timber or livestock being held or transported on tribal lands shall be guilty of a civil violation and upon conviction thereof, shall be assessed a penalty of no more than \$500.00 nor less than \$250.00.

Any subsequent offenses maybe a Level 2 Infraction or a class B offense as warranted.

Nothing in this section shall provide any relief from other civil or criminal charges involving timber or livestock or any other unlawful activity.

9.05.035 – Trespass of Livestock

Any person who allows their livestock of any species to trespass or stray on lands of the Tribe shall be guilty of a civil violation and upon conviction thereof shall be assessed a \$500.00 penalty and any damages to property, and upon subsequent conviction of subsequent violations, shall be assessed a \$1000.00 penalty plus court and enforcement costs, and may be ordered to pay damages to property and be subject to such other orders as the Tribal Court may direct.

9.05.040 - Additional Requirements for Agricultural Development:

To ensure its health, safety and welfare and viable economic trade, the Tribe shall require that all rules concerning the identification, branding, transport and health of timber and livestock shall be in accordance with regulations adopted by the Washington State Department of Agriculture and Health, however, livestock or timber legally raised or harvested on Tribal lands that shall remain on tribal lands, shall only require such inspections or transport permits issued by the Tribal Brand Inspector as deemed necessary, if any.

For the purposes of this chapter, “remain on Tribal lands” may include the transport of timber or livestock to other Tribal lands that require leaving then returning to tribal lands as necessary however, this shall not relieve the transporter from being in compliance with Washington State laws while off Tribal lands.

9.05.045 - Official Tribal Activities:

This chapter does not affect the lawful activities of the Tribal government or its employees in harvesting timber or the transporting or the keeping of livestock except that any timber or livestock that is to be transported or kept off Tribal lands may require an inspection without fee.

For the purposes of this paragraph only, any tribal member(s) performing a ceremonial function or a person(s) contracted to perform activities for the Tribe may be considered an “employee” if their activity is authorized by the Tribal Government.

9.05.050 - Knowledge of Agricultural Ordinances

It is the responsibility of any person engaged in agricultural activities to familiarize himself or herself with this chapter and any additional rules adopted under the authority of this chapter and it shall not be a defense that they were unaware of the provisions this chapter.

9.05.055 - General Stillaguamish Park Regulations:

The following are basic rules for the use of Tribal Park lands:

- Park hours are dawn until on half-hour before dusk unless otherwise authorized. Overnight camping requires a permit issued by the Park Ranger or Authorized Officer.
- Alcoholic beverages are not permitted unless specifically authorized in writing by the Park Ranger or his designee, or as a condition of a camping permit.
- Dangerous weapons as defined in Section 8.50.082, are prohibited if posted as such. Park lands designated as hunting areas allow hunting weapons only during a hunting season and during authorized hunting hours (not before dawn and not after dusk). However, firearms are authorized in undeveloped wilderness areas where dangerous and/or predatory animals are likely to be encountered.
- Open fires are prohibited unless specifically authorized and when permissible, shall be accomplished in a safe manner. Any fire must be attended at all times and completely extinguished before departure.
- Destroying, molesting, disturbing, or injuring property, vegetation, or animals is unlawful.
- Loud speakers or stereo systems that can be heard beyond 30 feet are prohibited or loud noises that to annoy or disturb other park patrons.
- Sexual activity in parks and other recreational areas is prohibited except within a lawfully authorized structure, tent or camping vehicle and must be an otherwise lawful and conducted out of view of the public.

Motor Vehicles

- Motor vehicles are prohibited from use in park unless specifically authorized. If authorized, motor vehicles may only be operated in approved areas. The Park Ranger or other Authorized Officer may immediately impound any motor vehicle found in an unauthorized area and hold for a disposition by the Tribal court. All fees for said impound shall be the responsibility of the vehicle owner.
- Speed limit is 15 M.P.H. unless otherwise posted if vehicles are authorized.

Pets

- Pets must be under control at all times. Leashes are required if the area is posted as such.

- For other swimmers or sunbathers' comfort and health, pets may not be permitted on the beaches or the swim areas off leash at the direction of the Park Ranger
- Pet owner or handlers must remove all dog feces from developed parks.

Violations of any park rules regulations not specifically covered by other tribal laws shall be civil infractions carrying the penalties as listed below:

1. Disobeying or refusal to obey oral instruction of a Ranger/Officer	\$750.00
2. Unauthorized or unsafe operation of a motor vehicle in parks:	\$750.00
3. Unauthorized or unattended campfires or violating burning ban rules:	\$500.00
4. Unauthorized camping or remaining on tribal lands after hours:	\$500.00
5. Disobeying other posted rule(s) specific to an area:	\$500.00
6. Failure to secure necessary park use permit:	\$500.00
7. Removal of tribal or park property or official signs:	\$500.00
8. "Private" Nudity in park not meant as affront or alarm: (see 8.35.075)	\$350.00
9. Voyeurism:	\$350.00
10. Failure to remove pet waste or allow dog off leash in restricted area:	\$150.00
11. Failure to pay or deposit park use fees:	\$150.00
12. Disturbing the peace and quiet of the park with loud noises or music:	\$150.00
13. Failure to use sanitation facilities when provided.	\$150.00
14. Unlawful sexual activity in park.	\$500.00

The Park Ranger and other Authorized Officer are the custodians of the parks and shall have the authority to determine proper conduct therein. Any person may appeal their decision to the Tribal Board of Directors. Any violation of park regulations or Tribal law shall be grounds for banning the violator for a period of one year or longer.

9.05.056 - Other Rules May be Adopted

The Board of Directors or its designee may adopt further rules as necessary to carry out the purposes of this chapter to include a schedule of fees for brand inspections. It shall be the duty of any Authorized Officer to enforce the provisions of this chapter and/or rules adopted hereunder.