

## **TRIBAL COUNCIL ACT 3.1**

### **ACT ESTABLISHING**

### **THE JUDICIARY**

### **BE IT ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL**

#### **SECTION 1.0 - TITLE AND CODIFICATION**

This Chapter shall be known as the Snoqualmie Judiciary Act and shall be codified as Title 3, Chapter 1 of the Snoqualmie Tribal Code.

#### **SECTION 2.0 - STATUTORY AUTHORIZATION**

The aboriginal and inherent sovereign power of the Snoqualmie Indian Tribe is vested in the Snoqualmie Tribal Council. The Snoqualmie Tribal Council has the authority to safeguard and promote the peace, safety, moral, and general welfare of the members of the Tribe by regulating the behavior of all persons within the jurisdiction of the Tribe. This authority includes the authority to establish a Tribal Court and to provide for laws and procedures governing its operation, and the selection of judges. Snoq. Tr. Const. Art. VIII, Section 1(k). The judicial authority of the Snoqualmie Tribal Court is set forth in Article X of the Snoqualmie Tribal Constitution.

#### **SECTION 3.0 - PURPOSE AND SCOPE**

The purpose of this Chapter is to create a fair and impartial judicial system to interpret and apply the laws and constitution of the Snoqualmie Indian Tribe.

#### **SECTION 4.0 - THE JUDICIARY**

The judicial power of the Tribe shall be vested in the judicial branch of Tribal government, which shall consist of a Tribal Court, a Court of Appeals, and a Peacemaker Court.

#### **SECTION 5.0 - JURISDICTION**

(a) Tribal Court.

- (1) Criminal jurisdiction. The Tribal Court shall have criminal jurisdiction over any Snoqualmie Tribal member, American or Canadian Indian, or Alaskan or Hawaiian Native on Snoqualmie Tribal lands and accused of the commission of a criminal offense as defined under the Snoqualmie Tribal Criminal Code. The Tribal Court shall have criminal jurisdiction over any non-Indian as permitted under Federal law.
- (2) Civil jurisdiction. The Tribal Court shall have jurisdiction over all cases, matters or controversies arising under the Snoqualmie Tribal Constitution and the laws, ordinances, regulations, and customs of the Tribe. The Tribal Court shall have

jurisdiction over all Indians, without regard to where they may be found in cases in which the Tribe has subject matter jurisdiction, and over non-Indians, corporations and other legal entities in cases authorized by the Snoqualmie Tribal Code or other Tribal Council resolutions.

- (b) Court of Appeals. The Court of Appeals shall have jurisdiction to hear all appeals from final decisions of the Tribal Court. Decisions of the Court of Appeals on all matters within its appellate jurisdiction shall be final.
- (c) Peacemaker Court. The Peacemaker Court shall have such original and subject matter jurisdiction over disputes involving minor civil matters between Snoqualmie Tribal members and the application of Tribal customs and traditions to Tribal life.

## **SECTION 6.0 - POWER OF THE COURTS**

The Courts of the Snoqualmie Tribe shall have the power to:

- (a) Interpret, construe and apply the Snoqualmie Tribal Constitution, the Snoqualmie Tribal Code, and regulations of the Tribe;
- (b) Declare the laws and regulations of the Tribe void if such laws or regulations conflict with the Snoqualmie Tribal Constitution;
- (c) Issue injunctions, attachments, writs of mandamus, quo warranto, review, extradition, certiorari and prohibition, writs of habeas corpus upon petition by, or on behalf of any person held in actual custody; and
- (d) Establish court rules, forms and procedures, and rules of practice for the Tribal Courts, except that the Tribal Council may enact such court rules, forms, procedures and rules of practice through legislative acts.

## **SECTION 7.0 - COMPOSITION OF THE JUDICIARY**

### **7.1 SNOQUALMIE TRIBAL COURT**

The Tribal Court shall consist of a Chief Judge and two (2) Associate Judges appointed for a term of three (3) years by a majority of the Tribal Council, upon the recommendation and advice from Tribal Elders and the Tribal Chairman.

### **7.2 COURT OF APPEALS**

The Court of Appeals shall consist of a Chief Judge and two Associate Justices. Two of the three Tribal Court Judges may sit as members of the Court of Appeals. The Court of Appeals judges shall be appointed by a majority of the Tribal Council, upon the recommendation and advice from Tribal Elders and the Tribal Chairman.

### **7.3 TRIBAL PARTICIPATION IN INTERTRIBAL COURT SYSTEM**

- (a) Notwithstanding the provisions of Section 7.1 and Section 7.2, until the Tribe is able to establish a separate Snoqualmie Tribal Court System, the Tribe may, upon passage of a resolution by Tribal Council, participate in an established Judicial Conference, Tribal Regional Court of Appeals, or intertribal entity chartered for the purposes of providing court services and personnel such as the Northwest Intertribal Court System.
- (b) If the Tribe does participate in such a judicial conference, regional court, or intertribal entity:
  - (1) any person deemed qualified by the judicial conference, court or intertribal entity who also meets the requirements of Section 8.0 of this Act may serve as a Judge or Justice of the Snoqualmie Tribal Court or Court of Appeals;
  - (2) appeals to the Court of Appeals shall be heard by a panel of three judges;
  - (3) the Judges and Justices of the Snoqualmie Tribal Court and Court of Appeals shall be appointed and assigned to specific cases by said judicial conference, regional court, or intertribal entity pursuant to its own protocols, procedures, or standard operating practices; and
  - (4) any provisions of the Snoqualmie Tribal Code that conflict with the provisions of this Section, including those requiring judges and justices to be appointed by the Tribal Council, shall have no effect so long as the Tribe continues to participate in such a judicial conference, regional court, or intertribal entity.

### **7.4 PEACEMAKER COURT**

Reserved.

### **SECTION 8.0 - APPOINTMENT AND QUALIFICATION OF JUDGES**

The appointment of Tribal judges and the qualification to serve as a Tribal Judge shall be consistent with Article X, Section 5 of the Tribe's Constitution. Until the Tribe is able to establish a separate Snoqualmie Tribal Court system, the Tribe shall contract with the Northwest Intertribal Court System to provide a roster of eligible Tribal judges that meets Constitutional qualifications. The Judges of the Snoqualmie Tribal Court shall be appointed and assigned to specific cases by the Northwest Intertribal Court System pursuant to its own protocols, procedures, or standard operating practices, and any provisions of the Snoqualmie Tribal Code that conflict with the provisions of this Section, including those requiring judges to be appointed by the Tribal Council, shall have no effect so long as the Tribe continues to participate in the Northwest Intertribal Court System.

## **8.1 DISQUALIFICATION**

In the event that a judge is disqualified or unable to hear a case, the Northwest Intertribal Court System shall appoint another judge from its roster of judges that satisfies the requirements of Section 8.0 pursuant to its own protocols, procedures, or standard operating practices.

## **8.2 CONFLICT OF INTEREST**

No judge shall be qualified to preside in any case in which he or she has any direct or personal interest, or in which any relative, by marriage or blood in the first or second degree, is a party.

## **8.3 JUDICIAL ETHICS**

All Tribal Court judges shall strive to protect and preserve the high standards of the Snoqualmie Tribal judiciary and shall comply with the Model Canons of Judicial Ethics of the American Bar Association as it now exists and as it may be amended in the future.

## **SECTION 9.0 - REMOVAL OF JUDGES**

A judge may be removed from office by the Snoqualmie Tribal Council for cause as follows:

- (a) Conviction of a felony or serious misdemeanor (excluding traffic citations) in any court of competent jurisdiction within the United States;
- (b) Neglect of duty or malfeasance in office;
- (c) Commission of acts that call the reputation or integrity of the judicial branch of Tribal government into question;
- (d) Disbarment from the practice of law in any jurisdiction when the appointed judge is also an attorney; and
- (e) Violation of the Model Canons of the Judicial Ethics of the American Bar Association where the penalty for violation is removal from office.

## **9.1 TERMINATION OF APPOINTMENT OF JUDGES**

Notwithstanding the provisions of Section 9.0, until the Tribe is able to establish a separate Snoqualmie Tribal Court system, the Judges of the Snoqualmie Tribal Court shall be appointed, assigned to specific cases, and removed by the Northwest Intertribal Court System pursuant to its own protocols, procedures, or standard operating practices, and any provisions of the Snoqualmie Tribal Code that conflict with the provisions of this Section, shall have no effect so long as the Tribe continues to participate in the Northwest Intertribal Court System. The appointment of a Tribal Judge by the Tribal Council who is not on the roster of Judges maintained by the Northwest Intertribal Court System may be terminated at any time, without or without cause, by the Tribal Council.

## **SECTION 10.0 - SOVEREIGN IMMUNITY**

The Snoqualmie Tribe, the Snoqualmie Tribal Council, and all Tribal agencies, committees departments, entities or employees of any kind shall be immune from suit for any acts or omissions done during the performance of Tribal duties. Only Tribal Council has the authority to waive this sovereign immunity in accordance with Snoqualmie Tribal law.

## **SECTION 11.0 - CHOICE OF LAW**

The Snoqualmie Tribal Courts shall apply the Snoqualmie Tribal Code and Constitution, including the traditions and customs of the Snoqualmie Tribe. If no Tribal law governs the issues being heard by the Court and there is no choice of law clause applicable to the case, the Court shall apply, in the following order:

- (a) The laws of other Indian tribes;
- (b) Federal statutory law; and
- (c) State statutory law.

## **SECTION 12.0 - LONG ARM JURISDICTION**

The Tribal Court shall exercise long arm jurisdiction to the extent consistent with the due process requirements set forth in the Indian Civil Rights Act, 25 U.S.C. § 1302(8), and the jurisdictional limitations set forth in section 5.0 of this Chapter. Any person or entity that is not a member or entity of the Snoqualmie Indian Tribe and that is not present on Snoqualmie Tribal lands submits to the jurisdiction of the Tribal Court by doing any of the following acts:

- (a) Transacting any business on Snoqualmie Tribal lands;
- (b) Committing any tortuous act on Snoqualmie Tribal lands;
- (c) Owning, using, possessing or having an interest in any real or personal property situated on Snoqualmie Tribal lands;
- (d) Contracting to insure any person, property or risk located on Snoqualmie Tribal lands at the time of contracting;
- (e) Serving as the parent, custodian or other person with a legal interest in an Indian child subject to the jurisdiction of the Tribe;
- (f) Entering into any consensual relationship with the Tribe or its members, through commercial dealing, contracts, leases, or other arrangements;
- (g) Accepting a privilege from the Tribe, or entering into a consensual relationship or commercial transaction with a member relating to the exercise of treaty fishing, hunting or gathering rights;

- (h) Engaging in conduct that damages a natural resource of the Tribe or any individual Tribal member;
- (i) Any child custody proceeding as defined under the Indian Child Welfare Act, 25 U.S.C. § 1903(1); or
- (j) Engaging in conduct on Snoqualmie Tribal lands that threatens or has some direct effect on the political integrity, economic security or the health or welfare of the Snoqualmie Indian Tribe.

Where jurisdiction is based on an act or omission set forth in this section, the Court may exercise personal jurisdiction over the person who does such act, directly or by an agent, as to any cause of action arising under Tribal law from such act. If the person is an individual, the Court's jurisdiction extends to their personal representative.

## **SECTION 13.0 - JURIES**

### **13.1 RIGHT TO JURY**

All persons accused of an offense punishable by imprisonment has the right, upon request, to a trial by jury of no less than six (6) persons.

### **13.2 JURY SELECTION**

A list of eligible jurors shall be prepared and maintained by the Clerk of the Court. The list shall be updated no less than one time per year. The Court shall provide for the selection of jurors from the list of persons eligible for service as jurors.

### **13.3 JUROR QUALIFICATIONS**

Jurors shall be enrolled members of the Snoqualmie Indian Tribe at least eighteen (18) years of age or older. A juror may be excused from service on a jury for good cause shown under oath to a Tribal Court judge. Members of the Snoqualmie Tribal Council shall be excused from service on a jury while in office.

### **13.4 REIMBURSABLE EXPENSES ASSOCIATED WITH JURY SERVICE**

Every person who is required to attend Tribal Court for either selection or service on a jury shall be entitled to reimbursement for mileage to and from the Court site at a rate established by the Snoqualmie Tribal Finance Department.

### **13.5 JUROR CONFLICT OF INTEREST**

No person is qualified to sit on a jury panel in the Tribal Court in any case in which the juror has a direct interest in the outcome of the case, or is related, by blood or marriage in the first or second degree, to any party in the case.

## **SECTION 14.0 - SUBPOENAS & WITNESSES**

### **14.1 AUTHORITY TO ISSUE SUBPOENAS**

A Tribal Court judge has the authority to issue subpoenas for the attendance of witnesses and the production of documents, either on his or her own motion, or upon the motion of the Snoqualmie Tribal Police or any party to the case. The subpoena shall be signed by the Tribal Court judge who issues it. Subpoenas issued pursuant to this section may be issued for the purposes of discovery, for pre-trial hearing, or for a trial or post-trial proceeding.

### **14.2 SERVICE OF SUBPOENAS**

Service of a subpoena issued pursuant to section 14.1 of this Chapter shall be made by a Snoqualmie Tribal Police Officer, any other person appointed by the Court for this purpose, or by any competent person over the age of eighteen (18) years old who is not a party to the action. Proof of service of a subpoena shall be filed with the Clerk of the Court by noting on the subpoena the return date, time and place that it was served.

### **14.3 FAILURE TO OBEY A SUBPOENA**

If a witness fails to obey a subpoena, an order to show cause why the witness should not be found in contempt of Court shall issue immediately.

### **14.4 FOREIGN COURT SUBPOENAS**

The Tribal Court shall only recognize and enforce a subpoena issued by a Foreign court to the Tribe, a Tribal entity, a Tribal member, other person under the jurisdiction of the Snoqualmie Indian Tribe, or a custodian of Tribal records, pursuant to the procedures of Section 8.0 of Snoqualmie Tribal Council Act 3.4 – Recognition and Enforcement of Foreign Court Orders.

## **SECTION 15.0 - LEGAL COUNSEL**

### **15.1 RIGHT TO COUNSEL**

Any person appearing as a party in Tribal Court shall have the right to legal counsel at their own expense. Legal counsel appearing in Tribal Court need not be an attorney or admitted to practice before the bar of any state.

### **15.2 COURT APPOINTED COUNSEL**

The Tribal Court may appoint counsel to represent any person appearing as a criminal defendant, if the Court finds the person to be indigent based upon the standards of indigence established by the Court and approved by Tribal Council. Appointed legal counsel may be:

- (a) An attorney admitted to practice before any state bar;
- (b) A student at, or graduate of, any school of law accredited by the American Bar Association; or

- (c) Lay counsel admitted to practice in the Tribal Court.

The Tribal Court has the authority to adopt rules for the licensing of members to the bar of the Snoqualmie Tribal Court.

### **15.3 PROSECUTING ATTORNEY**

The Snoqualmie Tribal Council shall appoint a person(s) to serve as Snoqualmie Tribal Prosecutor. Any such person shall be of good moral character and without convictions of any previous felonies under any law. The prosecutor shall be paid at a rate established by the Tribal Council, in consultation with the Tribal Administrator. The prosecutor's duties include:

- (a) Prosecuting all persons against whom a complaint of an offense under the Snoqualmie Tribal Criminal Code has been filed; and
- (b) To ensure compliance with all judgments and sentences of the Snoqualmie Tribal Court and the procedural requirements of this Chapter and the Snoqualmie Tribal Code.

### **SECTION 16.0 - PROCEEDINGS BEFORE THE SNOQUALMIE COURT OF APPEALS**

The Federal Rules of Appellate Procedure shall govern the procedure in the Snoqualmie Tribal Court of Appeals.

### **SECTION 17.0 - CLERK OF THE COURT**

The Snoqualmie Tribal Council shall appoint a Clerk of the Snoqualmie Tribal Court, who shall be under the supervision of the Tribal Administrator. The Clerk's duties shall include, but are not limited to:

- (a) Render assistance to the Tribal Courts and the Tribal police of complaints, subpoenas, warrants and commitments, and any other documents incidental to the lawful function of the Court;
- (b) Attend and keep, or arrange to have kept, a written record of all court proceedings;
- (c) Administer the oath to witnesses;
- (d) Receive, record and disburse all fines, fees and charges imposed by the Court;
- (e) Prepare and make available to parties forms, approved by the Tribal Council, for pleadings and service of process;
- (f) Develop and keep a current docket numbering system and shall preserve and protect the original, official records of all Court proceedings;
- (g) Draft and monitor all budgets for the Tribal Court, including the submissions of reports to the appropriate departments required by contract or policy;
- (h) Develop and maintain a calendar for all Court cases;



- (1) Maintain a Tribal Court bar roster;
  - (2) Assist and/or give the general public information pertaining to Court matters, filing of documents and court procedures, without giving legal advice; and
- (k) Perform any other duties as the judges, Tribal Administrator or Tribal Council may assign.

## **SECTION 18.0 - WRIT OF HABEAS CORPUS**

### **18.1 AVAILABILITY OF WRIT OF HABEAS CORPUS**

- (a) Every person within the jurisdiction of the Tribe who is imprisoned or otherwise restrained of liberty may prosecute a writ of habeas corpus to inquire into the cause of the imprisonment or restraint, and if illegal, to be freed from imprisonment or restraint.
- (b) A writ of habeas corpus is not available to attack the validity of any conviction or sentence of a person who has been adjudged guilty of an offense by a court of competent jurisdiction and who has exhausted the remedy of appeal. Nor is it available to attack the validity of an order revoking a suspended or deferred sentence.
- (c) When a person is imprisoned or detained in custody by the Tribe for any criminal offense for want of bail, such person is entitled to a writ of habeas corpus for the purpose of giving bail upon averring that fact in his petition, without alleging that he or she is illegally confined.

### **18.2 ISSUANCE OF WRIT OF HABEAS CORPUS**

- (a) Application for a writ of habeas corpus may be made by a petition signed either by the person for whose relief it is intended or by some person on the petitioner's behalf. The petition must specify
  - (1) That the petitioner is unlawfully imprisoned or restrained of liberty;
  - (2) Why the imprisonment or restraint is unlawful; and
  - (3) Where and by whom the petitioner is confined or restrained.
- (b) All parties involved must be named, if known, or otherwise described so that they can be identified.
- (c) The petition must be verified by the oath or affirmation of the party making the application.

### **18.3 GRANTING THE WRIT OF HABEAS CORPUS**

Any Tribal Court judge may grant a writ of habeas corpus upon petition by or on behalf of any person illegally confined or restrained within the Tribe's jurisdiction.

#### **18.4 TIME OF ISSUANCE; REQUIREMENTS FOR SERVICE**

- (a) A writ of habeas corpus or any associated process may be issued and served on any day at any time.
- (b) The writ must be served upon the person to whom it is directed. If the writ is directed to a Tribal agency or employee, such as the Snoqualmie Tribal Police Department, a copy of the writ must be served on the Tribal Prosecutor.
- (c) The writ must be served by a Tribal Police Officer, or any other person authorized to do so by the Tribal Court.

#### **18.5 RETURN OF THE WRIT**

- (a) The person upon whom the writ is served shall make a return and shall state in that return:
  - (1) Whether the petitioner is in that person's custody or under that person's power of restraint;
  - (2) If the petitioner is in custody or otherwise restrained, the authority for, and cause of the restraint; or
  - (3) If the petitioner has been transferred to the custody of another, to whom the petitioner was transferred, the time and place of the transfer, the reason for the transfer, and the authority under which the transfer took place.
- (b) The return must be signed and verified by oath unless the person making the return is a sworn Tribal officer making a return in an official capacity.

#### **18.6 APPEARANCE AND HEARING**

- (a) The person commanded by the writ shall bring the petitioner before the Court as commanded by the writ unless the petitioner cannot be brought before the Court without danger to the petitioner's health. Sickness or infirmity must be confirmed in an affidavit by the person who has the petitioner in custody. Based on the information contained in the affidavit, the Court may proceed and dispose of the case as if the petitioner were present, or the Court may postpone the hearing until the petitioner is able to be present.
- (b) Unless the Court postpones the hearing in accordance with paragraph (a) of this section, the Court shall immediately proceed to hear and examine the petition and return.
- (c) Refusal to obey the writ is contempt of court as defined in the Snoqualmie Tribal Criminal Code.

#### **18.7 DISPOSITION OF PETITIONER**

If the Court finds in favor of the petitioner, the Court shall enter an appropriate order with the judgment or sentence in the previous proceeding and any supplementary orders as to

reassignment, retrial, custody, bail, or release as may be necessary and proper. If the Court finds for the prosecution, the petitioner must be returned to the custody of the person to whom the writ was directed.

#### **SECTION 19.0 - COURT FEES AND COSTS**

Upon conviction of any offense under the Snoqualmie Tribal Criminal Code, the judgment and sentence of the Tribal Court and the Appellate Court shall carry and assess costs against the defendant unless the Court modifies, reduces or declines to impose such costs. Such costs shall be payable to the Clerk of the Court. Such costs include, but are not limited to, reimbursement to the Tribe for fees paid to judges, clerk, prosecuting attorney, witness fees, and costs associated with service of Court documents.

#### **SECTION 20.0 - MAINTENANCE OF COURT RECORDS**

The Tribal Court shall maintain a record of all Court proceedings for its own information and purposes and, unless otherwise prohibited under Tribal law, for inspection by the general public. Provided, that the records of Court proceedings involving juveniles, adoptions and proceedings deemed by Court order to be of a sensitive or personal nature to the parties and not of public interest, shall not be open to public inspection without a Court order granting such inspection.

**ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL ON THE 2<sup>ND</sup> DAY OF FEBRUARY, 2002 IN SESSION DULY MET, WITH \_\_\_ FOR, 0 AGAINST, AND 0 ABSTAINING. TRIBAL COUNCIL ACT 2-02.**

**AMENDED BY THE SNOQUALMIE TRIBAL COUNCIL ON THE 20<sup>TH</sup> DAY OF MARCH, 2008 IN SESSION DULY MET, WITH 8 FOR, 0 AGAINST, AND 0 ABSTAINING. TRIBAL COUNCIL ACT 06-2008.**

**FURTHER AMENDED BY THE SNOQUALMIE TRIBAL COUNCIL ON THE 23<sup>RD</sup> DAY OF MAY, 2013 IN SESSION DULY MET, WITH 8 FOR, 0 AGAINST, AND 0 ABSTAINING. RESOLUTION NO. 106-2013.**

**FURTHER AMENDED BY THE SNOQUALMIE TRIBAL COUNCIL ON THE 27<sup>TH</sup> DAY OF JUNE, 2013 IN SESSION DULY MET, WITH 8 FOR, 0 AGAINST, AND 0 ABSTAINING. RESOLUTION 129-2013.**

**CODIFIED AS AMENDED BY THE TRIBAL SECRETARY ON THE 7 DAY OF August, 2013.**

  
TRIBAL SECRETARY