

AN ACT RELATING TO
TRIBAL EMPLOYMENT RIGHTS

BE IT ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL

SECTION 1.0 – TITLE AND CODIFICATION

This Chapter shall be known as the Snoqualmie Tribal Employment Rights Ordinance (“TERO”) and shall be codified as Title 5, Chapter 1 of the Snoqualmie Tribal Code.

SECTION 2.0 – STATUTORY AUTHORIZATION

Reserved.

SECTION 3.0 – PURPOSE AND SCOPE

The Snoqualmie Tribal Council finds that employment discrimination against Indians persists on ancestral lands of the Snoqualmie people despite a large number of Indian and non-Indian owned businesses employing skilled and non-skilled workers. The Tribal Council further finds that jobs in businesses and other economic opportunities on traditional tribal lands and reservation lands are important resources to which Indians have unique preferential rights. Therefore, to implement the unique employment rights of Indians, the Snoqualmie Tribal Council establishes a Tribal Employment Rights Commission and TERO Program to achieve its goals and policies towards exercising the unique employment rights of Indians.

The Snoqualmie Tribal Council authorizes the appointed TERO Program Representative to impose up to 100% Indian hiring goals and timetables specifying the number of Indians the employer shall hire by craft and skill level.

SECTION 4.0 - DEFINITIONS

TRIBAL COUNCIL means the governing body of the Snoqualmie Indian Tribe of Washington.

CHAIRPERSON means the Chairperson of the Snoqualmie Tribal Employment Rights Commission for the purpose of this Chapter.

COMMISSION means the Snoqualmie Tribal Employment Rights Commission.

COMMISSIONER means a member of the Snoqualmie Tribal Employment Rights Commission.

EEOC means the Equal Employment Opportunities Commission of the United States.

EMPLOYER means any person, company, contractor, subcontractor, or other entity located on or

engaged in work on or proximate to the Snoqualmie Reservation or within traditional Snoqualmie tribal territory, employing one or more persons. The term "employer" excludes Federal, State, County, and Tribal Governmental Agencies, and Tribal Enterprises, but expressly includes contractors and subcontractors of all governmental agencies.

ENGAGED IN WORK ON THE RESERVATION means if during any portion of a business enterprise or specific project, contract or subcontract, an employer or any of his/her employees spends any of their time performing work within the exterior boundaries of the Reservation.

FEPC means the Fair Employment Practices Commission of the United States:

SNOQUALMIE TERO REPRESENTATIVE means the person appointed by the Commission to carry out the daily enforcement of this Chapter.

HIRING PREFERENCE FOR INDIVIDUAL INDIANS means a qualified Indian person must be hired before a qualified non-Indian person, whenever an opening is available.

CONTRACTING PREFERENCE FOR INDIAN-OWNED BUSINESSES means that contracting and subcontracting preference shall be given to qualified Indian-owned businesses.

INDIAN means any person who is a member of a federally recognized Indian tribe, and recognized as an Indian by the United States, pursuant to its trust responsibility to American Indians.

INDIAN-OWNED BUSINESS means a business entity of which at least 51% of the business is owned, controlled, and managed by an Indian(s).

LOCAL RESIDENT means a person who has been residing within or adjacent to Snoqualmie Territory for at least six months prior to the date of hire.

LOCATED ON THE RESERVATION means if during any portion of a business enterprise or specific project, engaged in contract, or subcontract, an employer maintains a temporary or permanent office or facility within or proximate to the Reservation.

OFCCP means the Office of Federal Contract Compliance Programs of the United States.

RELIGIOUS BELIEF shall be defined according to the findings of the American Indian Religious Freedom Act of 1978.

RESERVATION means all lands and waters within the exterior boundaries of the Snoqualmie Indian Reservation or within or adjacent to the jurisdiction of the Snoqualmie Tribe.

SNOQUALMIE TERRITORY means the usual and accustomed areas of the Snoqualmie Tribe.

RESPONSIVE BIDDER means a party who submits a bid, which meets the requisite specifications of the party letting the bid.

SECRETARY means the Secretary of the Interior or his/her duly authorized representative.

TEMPORARY FACILITY means a modular, or housing type structure, or trailer located on the Reservation one day or more.

TRIBAL MEMBER means any person who is a duly enrolled member of the Snoqualmie Indian Tribe, unless the context clearly indicates otherwise.

PREFERRED EMPLOYEE means a person entitled to a preference in employment under this Chapter.

TRIBE means the Snoqualmie Tribe of Washington, unless the context clearly indicates otherwise.

SECTION 5.0 – SNOQUALMIE TRIBAL EMPLOYMENT RIGHTS COMMISSION

Snoqualmie Tribal Employment Rights Commission:

Until other Commissioners are appointed by the Tribal Council, the Snoqualmie Tribal Council shall function as the Tribal Employment Rights Commission.

Appointment:

The Snoqualmie Tribal Employment Rights Commission shall be comprised of three (3) members and two (2) alternates appointed by the Snoqualmie Tribal Council.

Terms of Office:

The Commission shall hold office for one, two, and three years, each term to be served during the term of office for each Tribal Council member, and shall expire at the same time their term expires, unless the Tribal Council charters a TERO Commission and appoints the first Commission members, then the Commission shall hold office for staggered two year terms by vote of the General Council.

Removal of Office:

A Commissioner may be removed by the Tribal Council as promulgated in the Tribes Constitution and Bylaws, under “removal of office.” or for just cause if the Commission is appointed.

Vacancy and Interim Appointment:

In the event of a vacancy of one of three permanent members, the tribal council shall designate one of the two alternates to serve as a commissioner until a permanent member is appointed by the Council.

Quorum:

Three Commissioners shall constitute a quorum to transact business.

Chairperson:

The Chairperson of the Commission shall be elected by the Commission and shall have the authority to call a TERO Commission meeting.

Duties of the Commission and TERO Representative:

The Commission and the TERO Representative shall administer the TERO Program of the Snoqualmie Indian Reservation in accordance with this TERO Ordinance, Commission Charter, and the Bylaws of the Snoqualmie Tribe.

Powers of the Commission:

The Commission in its discretion shall have the power:

- (a) To hold hearings and to subpoena witnesses and documents in accordance with this TERO Ordinance; and
- (b) To delegate authority to the Snoqualmie Tribal Employment Rights Representative; and
- (c) To hear appeals from the actions of the Tribal Employment Rights Representative, for operations to flow smoothly.
- (d) Promulgate regulations to ensure effective implementation of the TERO Ordinance, due process of the law and fair and equitable treatment under the law.
- (e) Establish rules and regulations governing all activities of the Commission, and the TERO Program, subject to the approval of the Commission.
- (f) To approve the annual operating budget of the TERO Program.
- (g) To approve a "special account" for funds generated from the TERO fees, to be deposited in the "special account" to be used for the TERO Program, unless otherwise authorized by the unanimous vote of the TERO Commission.
- (h) To take such other actions as are necessary to achieve the purposes and objectives of the Snoqualmie Tribal Employment Rights Program established in this Ordinance and policies of the Commission.
- (i) To adopt ByLaws with Tribal Council approval for efficient operations of the TERO

Commission.

Powers of the Tribal Employment Rights Office (TERO) Representatives:

The TERO Program Representatives appointed to carry out the daily enforcement of the Tribal Employment Rights program shall have the power to:

- (a) Obtain funding from Federal, State, or other sources to supplement Commission appropriations.
- (b) Impose up to 100% Indian hiring goals and timetables specifying the number of Indians the employer is hiring by craft and skill level;
- (c) Require that (regulated) employers operating a business within the jurisdiction of the Snoqualmie Tribe establish or participate in such job-related training programs as deemed necessary to increase the pool of Indians eligible for employment on the Snoqualmie Reservation;
- (d) Establish and administer a Tribal hiring hall;
- (e) Require that (regulated) employers hire non-Indians only after the Tribal hiring hall has certified that qualified Indians are not available to fill vacant job positions within a reasonable amount of time;
- (f) Prohibit (regulated) employers, from using job qualification criteria or personnel requirements that unreasonably bar Indians from employment. Commission regulations may adopt EEOC guidelines or may adopt additional requirements to eliminate barriers to Indian employment on and near the Snoqualmie Reservation;
- (g) Enter into agreements with unions and others to ensure union compliance with this Chapter and a continued and progressive recruitment in apprenticeship and journeyman level programs;
- (h) Require employers to give preference to Tribal and other Indian-owned businesses in the award of contracts and subcontracts;
- (i) Establish referral services with counseling programs to assist preferred employees to retain employment;
- (j) Require employers to submit reports and certified payrolls and take all actions deemed necessary by the TERO Representative for the fair and vigorous implementation of this TERO;
- (k) Enter into cooperative agreements with Federal employment rights agencies such as EEOC and OFCCP to eliminate discrimination against Indians both on and off the Reservation;

- (l) Take such actions as are necessary to achieve the purposes and objectives of the Snoqualmie Tribal Employment Rights Program established in this TERO

SECTION 6.0 – SNOQUALMIE TRIBAL EMPLOYMENT RIGHTS PROGRAM

Order of Preference: The following employment preference is established:

In General:

Whenever an employer or union would be required by any provision of this Ordinance to give preference in hiring or contracting, such preference shall be given to the following persons in the following enumerated order:

- (a) Members of the Snoqualmie Tribe;
- (b) Indian Spouses of members of the Snoqualmie Tribe who contribute to the support of a Snoqualmie household;
- (c) Other Indians.

Exception:

Where prohibited by applicable Federal law, the above order of preference set out in Subsection 4.2, shall not apply. In such cases, preference shall be given in the following enumerated order:

- (a) Indians who are local residents;
- (b) Other Indians.

Coverage:

All employers are required to give preference to Indian employees in hiring, promotion, training, and all other aspects of employment, contracting, or subcontracting, and must comply with the Ordinance, rules, regulations and orders of the TERO Representative and the Commission.

The above requirements shall apply not only to an employer located or engaged in work while on the Reservation or whose subcontractor is located on or engaged in work while on the Reservation, but also to any facilities of the employer located within a reasonable commuting distance from the Reservation. Where an employer has already agreed in a contract or other document to give preference to Indian employees, this Ordinance and the rules, regulations and orders of the Commission and TERO Representative shall define the specific minimum obligations of the employer pursuant to such agreement.

Implementation of Contracting and Subcontracting Preference:

There shall be a contracting and subcontracting preference of Indian-owned businesses on the Snoqualmie Indian Reservation. The contracting and subcontracting preference shall be manifested through giving bidding preference to Indian-owned businesses.

Contracting and Subcontracting:

The preference requirements contained in this Ordinance shall be binding on all contractors and subcontractors, regardless of tier, and shall be deemed a part of all resulting subcontract specifications. The employer (regulated) shall have the initial and primary responsibility for ensuring that all contractors and subcontractors comply with these requirements, if they fail to comply, then the provisions of Section 8 shall apply.

Certification:

An applicant seeking to qualify for preference in contracting and / or subcontracting shall submit proof of the applicant's Indian ownership which shall include, but not be limited to:

- (a) Certification by a federally recognized Indian tribe or the U.S. Bureau of Indian Affairs (BIA) that the applicant is a member of a federally recognized Indian tribe, therefore eligible to receive preference. The Tribes shall accept an original certification (not a copy) of a federally recognized tribal government or the U.S. BIA that an individual is a tribal member. Such tribal or federal certification shall be the only acceptable evidence of Indian status. Applicants, contractors or subcontractors found to have negligently or willfully misrepresented their Indian status to a tribal agency or contractor, shall receive a disbarment from operations within the exterior boundaries of the Snoqualmie Indian Reservation for a period of 60 months, after a finding of such misrepresentation. The TERO office shall give written notice to all tribal agencies of the fact and duration of such a disbarment from employment or contracting.
- (b) The company name, address and telephone number. Proof of company degree of Indian ownership.
- (d) If claiming 51 % Indian ownership, the company needs to provide a detailed report on the non-Indian partner of the company.
- (e) Incorporation documents or joint venture agreements or partnership agreements, which shall include documentation to identify the Indian company, and proof thereof.
- (f) Copies of Insurance coverage and bonding capabilities. Organizational Chart, including key personnel, identifying whether they are Indian or non-Indian.
- (g) Evidence (including but not limited to stock ownership, structure, management, control, financing and salary or profit sharing arrangements of the enterprise) that the applicant enterprise or organization is at least 51 percent Indian-owned and that 51 % of all profits will flow to the Indian owner(s) during all portions of the contract or subcontract term.

- (h) A firm seeking assistance through the TERO Program to comply with contracting or subcontracting preference under this TERO Ordinance shall submit evidence sufficient to demonstrate to the satisfaction of the agency and/or the contractor, as appropriate; that the applicant has the technical, administrative, an financial capability, and/or the necessary license(s) and bondability to perform contract work of the size and type involved, and within the time provided, under the proposed contract or subcontract. The agency is entitled to establish technical, administrative and financial qualifications for potential bidders so long as those qualifications are in writing and are reasonable qualifications that are necessary to the project or purpose of the contract or are standard in the industry.
- (i) Any other pertinent information required by the TERO Representative, tribal legal staff and/or Commission.

Joint Ventures:

No Indian/non-Indian joint venture shall be provided a preference under this Ordinance in contracting or subcontracting unless the Indian person or firm of the joint venture can successfully demonstrate that it has the capability to manage all the work on the project on its own and has entered into the joint venture because the non-Indian firm provides only limited backup capability such as bonding, specialized expertise, or capital.

Certification Denied:

A firm denied certification by the TERO office might appeal the denial, within 20 days thereof, to the TERO Commission.

Contracting and Subcontracting Compliance Plan:

A required contracting and subcontracting compliance plan shall indicate all contracts and subcontracts that will be entered into and the projected dollar amounts thereof. If the entity has already selected a contractor or subcontractor to perform any contract or subcontract work, it shall list the name of that contractor or subcontractor and indicate whether or not it is a contractor or subcontractor certified as Indian Preference eligible, the entity shall further indicate why each certified contractor or subcontractor, if any, registered with the TERO, that was technically qualified to perform the work was not selected.

The Compliance plan shall also indicate how the entity intends to comply with the contracting and subcontracting provisions of this Ordinance when awarding all contracts and subcontracts not yet awarded at the time the plan is submitted.

Tribal Hiring Hall:

The TERO Representative shall establish and administer a Tribal hiring hall to assist the employers in placing preferred employees in job positions. An employer may recruit and hire workers from whatever sources are available to them to achieve the same preference hiring

goals, but is subject to inform the TERO Representative, except as provided in Section 4.7, the employer may not employ a non- local Indian or non-Indian until the employer has given the Snoqualmie Tribal Employment Rights Office 72 hours to locate and refer a qualified local or non-local Indian.

Permanent and Key Employees:

Prior to commencing work on or near the Snoqualmie Indian Reservation a prospective employer and a contractor and subcontractors shall identify key, regular, permanent employees. Such key employees may be employed on the project whether or not they are local or non-local Indians. A regular, permanent employee is one who is and has been on the employers' or contractors' annual payroll for a period of one year continuously in a supervisory capacity, or is an owner of the firm. An employee who is hired on a project-by-project basis shall not be considered a key employee.

A key employee is one who is in a top supervisory position or performs a critical function such that an employer would risk likely financial damage or loss if that task were assigned to a person unknown to the employer. The fact that an employee had worked for the employer on previous projects shall not qualify that employee as a regular, permanent employee, provided that exceptions for superintendents and other key personnel who are not permanent, regular employees may be granted by the TERO Representative on a case-by-case basis. Any employer or contractor filling vacant employment positions in its organization immediately prior to undertaking work pursuant to a contract to take place on the Snoqualmie Indian Reservation shall set forth evidence acceptable to the TERO Representative, that its actions were not intended to circumvent these requirements. Upon its approval of each key or permanent regular employee requested by the employer, the TERO Representative shall approve that worker.

Emergency Hire Provision:

Under extreme circumstances where an employee is needed to fill a vacancy during off business hours when the TERO is unavailable, the employer will be allowed to hire employees necessary to meet the emergency for a maximum of three days or until TERO can be notified of the circumstances and can approve the individual or dispatch another Preferred Employee.

Emergency hires will be limited by the TERO Representative and will be allowed on a case-by-case basis. Any abuse concerning this provision will result in sanctions as provided in Section 10 of the TERO Ordinance.

Counseling and Support Programs:

The TERO Representative will coordinate with other programs and agencies for counseling and other support programs to assist preferred employees to retain employment. Every employer shall be required to cooperate with the TERO Representative regarding such counseling and support programs.

Job Qualifications, Personnel Requirements, and Religious Accommodations:

An employer may not use any job qualification criteria or personnel requirements which serve as barriers to the employment of Indians which are not required by business necessity. If the employer fails to meet his burden, it will be required to eliminate the criterion or personnel requirements at issue. Employers shall also make reasonable accommodation to the religious beliefs and cultural traditions of Indian workers. In implementing these requirements, the Commission shall be guided by the principles established by the EEOC Guidelines, particularly 29 CFR Parts 1604-1607, as amended. However, the Commission reserves the right to go beyond the EEOC principles in order to address employment barriers that are unique to Indians.

Lay-Offs:

In all lay-offs and reductions in force, no preferred employee shall be terminated if a non-preferred employee worker in the same job classification is still employed; the non-Indian worker in the same job classification is still employed; the non-Indian worker must first be terminated if the Indian possesses the threshold qualifications for the job classification. If an employer lays off workers by crews, all qualified Indian workers shall be transferred to crews to be retained so long as non-Indians in the same job classifications are employed elsewhere on the job site.

Promotion:

Every employer shall give Indians preferential consideration for all promotion opportunities and shall encourage Indians to seek such opportunities. For every supervisory position filled by a non-Indian, the employer shall file a report with the TERO Representative stating what efforts were made to inform Indian workers about the position, what Indians, if any, applied for the position, and the reasons why each Indian was not hired for that position.

Summer Students:

Every employer shall give Indian students preferential consideration for summer student employment. The employer shall make every effort to promote after-school, summer and vacation employment for Indian students.

SECTION 7.0 – TERO TAXES

The TERO Representative shall assess employers a TERO tax to provide revenue for operation of the TERO Program as follows:

Taxes:

With respect to each project/contract or subcontract of \$10,000.00 or more, operating on or near or within the exterior boundaries of the Snoqualmie Indian Reservation, the contractor shall pay a one time tax of 1.75% of the total project/contract costs, i.e., equipment, labor, materials and operations and any increase of the contract, project or subcontract amount. If the employer (regulated) initially enters into a contract, project or subcontract of less than \$10,000.00, but

subsequently increases costs, which results in the total contract, project or subcontract amount being equal to \$10,000.00 or more, the tax shall apply to the total amount including increases.

TERO Tax Payment:

The TERO tax provided for in the TERO Ordinance shall be paid by the contractor/employer or subcontractor, prior to commencing work on the Reservation. However, where good cause is shown, the TERO Representative may authorize the contractor/employer or subcontractor to pay the tax in installments over the course of the contract.

The checks are to be made payable to "Snoqualmie Tribe/ TERO Program", addressed to Finance Department Supervisor, The Snoqualmie Tribe, P.O. Box 670 Fall City, Washington 98024.

Delinquent Fees:

Except as otherwise provided here in Section 5, if the employer fails to pay the tax by the day of commencing work on the Reservation, interest shall begin accruing on that date at a rate of 12% per annum, compounded daily. Further, as soon as possible following the day on which the contractor commences work, the TERO Representative shall send notice to the employer by certified mail, informing the employer that the payment is overdue and of the consequences that will result if the fee is not paid immediately.

Non-Payment of Taxes:

If the tax is not paid by the fifteenth (15th) day after the employer commenced work, the TERO Representative shall file a formal charge of non-compliance, and shall schedule a Commission hearing to be held within five (5) days or as soon thereafter as the Commission can meet, and shall provide formal notice to the employer of the scheduled hearing.

At the hearing, to be held whether or not the employer attends, the Commission shall determine whether the contractor has failed to comply. If the Commission finds there has been non-compliance, it shall:

- (a) Impose penalties of up to 10% of the amount due; and
- (b) Petition the Tribal Court to enforce the decision of the Commission through confiscation proceedings as provided in this Ordinance, where the TERO Representative or Commission has reasonable cause to believe that an employer will flee the jurisdiction before the procedures set out above can be completed, they may apply any of the procedures provided for in this Ordinance, notwithstanding the above procedures. The employer shall be made a party to any court proceedings involving claims against the employer/contractor.

Payment Plan:

The TERO Representative in his/her discretion, may, upon receipt of a written request, authorize an employer to pay the required tax in installments over the course of the project or contract, when:

- (a) the total annual tax exceeds \$10,000.00; or
- (b) the contractor demonstrates hardship or other good cause.

Payment Plan Authorization:

The decision whether to authorize an alternative arrangement, which, if allowed, shall be in writing, shall rest solely with the discretion of the TERO Representative.

Interest:

The contractor shall pay interest, at 12% per annum, compounded daily, on all amounts paid after the day the contractor commences work on the Reservation, when paying under this alternative arrangement. The TERO Representative is authorized to terminate any alternative payment arrangement under this subsection and to declare such taxes immediately due and payable on the day following the date on which any installment payment is not timely made.

Increase of Taxes:

The tax collected from the employer pursuant to this section shall be increased in accordance with any increase in the contract amount as follows:

The Contractor shall be liable for the payment of taxes on each contract amount increase to the same extent the employer is liable for payment of the fee on the original contract amount. Tax payments attributable to contract amount of the increases are due and shall be paid on the date the contractor is notified of the allowance of such increase. Interest on unpaid fees due under Section (5.7) shall be computed in the same manner as interest on unpaid fees that are attributable to the original contract amount under Section 5.4;

SECTION 8.0 – REPORTS AND MONITORING

Employers/Contractors shall submit their reports, certified payrolls and other information requested by the TERO Representative. The TERO Representative shall have the right to make on-site inspections during regular working hours in order to monitor any employer's compliance with this Ordinance and rules, regulations and orders of the TERO Ordinance. The TERO Representative shall have the right to speak to workers and conduct an investigation on the job site. All information collected by the TERO Representative shall be kept confidential unless disclosure is required during a hearing or appeal as provided in Sections 8, 9, 10, and 11.

SECTION 9.0 - UNIONS

An employer, contractor, or subcontractor having a collective bargaining agreement with one or

more labor unions must obtain written agreement from said unions indicating that they will comply with this Ordinance, and the rules, regulations and orders of the TERO Representative. Until such agreement is filed with the TERO Representative, the employer may not commence work on the Snoqualmie Reservation.

Contents of Union Agreements:

Every union agreement with an employer must be filed with the TERO Representative and must provide:

- (a) Preferred Employee Preference: The union shall give absolute preference to preferred employees in job referrals regardless of which union referral list they are on.
- (b) Cooperation with the TERO Representative: The union shall cooperate with the TERO Representative in all respects.
- (c) Registration: The union shall establish a mechanism allowing preferred employees to register for job referral lists by telephone or mail or in person, coordinating efforts through the TERO Representative.
- (d) Training Programs: The union shall establish entry apprenticeship programs, advanced apprenticeship program and a journey level upgrade.
- (e) "Blanketing-In" Preferred Employees: The union shall "blanket-in" all preferred employees who qualify for journey level status and wish to join the union.
- (f) Temporary Work Permits: The union shall grant temporary work permits to preferred employee that does not wish to join the union.
- (g) Special Provisions: The Union shall provide special provisions for American Indians through negotiations with the TERO Representative.

SECTION 10.0 – HEARINGS

Notice:

If a hearing is requested by the TERO Representative, an individual, an employer, or union pursuant to this Section, a written notice of the hearing shall be given to all parties concerned by certified mail not less than thirty (30) days before the hearing. The notice shall contain a brief statement of the reason for the hearing, shall be designed reasonably to notify all concerned parties of the nature of the hearing and the evidence to be presented, and shall advise such parties of their right to be present at the hearing, to present testimony of witnesses and other evidence, to be represented by counsel at their own expense, and that the TERO Representative may be represented by counsel for the Tribe.

TERO Representative Complaint Procedure:

If the TERO Representative believes that an employer, contractor, subcontractor, or union has failed to comply with the TERO Ordinance or any rules, regulations, or orders of the Commission and TERO Representative, (s)he may file a complaint and notify such party of the alleged violations. The TERO Representative will attempt to achieve an informal settlement of the matter, but if an informal settlement cannot be achieved, the TERO Representative may receive a hearing upon the matter pursuant to Section 8.1.

Individual Complaint Procedures:

If any Indian believes that an employer has failed to comply with this Ordinance or rules, regulations, or orders of the Commission and TERO Representative, or believes (s)he has been discriminated against by an employer because of being an Indian, (s)he may file a complaint with the TERO Representative specifying the alleged violation. Upon receipt of the complaint, the TERO Representative shall investigate and attempt to achieve an informal settlement of the matter. If an informal settlement cannot be achieved, the individual or TERO Representative may receive a hearing upon the matter pursuant to Section 8.1.

Retaliation:

If an employer fires, lays off, penalizes or otherwise retaliates in any manner towards any preferred employee who utilizes the individual complaint procedure provided herein or exercises any right provided herein, the employer shall be subject to penalties provided in Section 10 of this Ordinance.

Employer or Union Complaint Procedure:

If an employer or union believes that any provision of this Ordinance or any rule, regulation or order of the TERO Representative is illegal or erroneous, they may file a complaint with the TERO Representative specifying the alleged illegality or error. Upon receipt of the complaint, the TERO Representative shall investigate and attempt to achieve an informal settlement of the matter. If an informal settlement cannot be achieved, the employer, union, or TERO Representative may receive a hearing upon the matter pursuant to Section 8.1.

Hearing Procedure:

Hearings shall be governed by the following rules of procedure:

- (a) All parties may present testimony of witnesses and other evidence and may be represented by counsel at their own expense;
- (b) The Commission may have the advice and assistance, at the hearing, of general counsel for the Tribe;
- (c) The Chairperson of the Commission, or the designated person in his/her absence, shall

preside. No formal rules of evidence of procedure need be followed but the Chairperson shall proceed to ascertain the facts in a reasonable and orderly fashion;

- (d) Any matter to be proven must be proven to the satisfaction of the Commission by a preponderance of the evidence;
- (e) The hearing may be continued at the discretion of the Commission;
- (f) At the final close of the hearing, the Commission may take immediate action or take the matter under advisement. A decision will be rendered within thirty days of the close of the hearing;
- (g) The Commission shall notify all parties within (10) working days after its decision in the matter.

SECTION 11.0 – JUDICIAL PROCEDURES

Any cases filed pursuant to Section 10.0 of this Chapter shall be considered civil actions governed by the Snoqualmie Tribal Code; provided, that in case of any conflict between the provision of this Chapter and the provisions of the Snoqualmie Tribal Code, the express provisions of this Chapter shall control. Any required notice shall be deemed received three (3) days after deposit of such notice as certified mail at the United States Post Office.

SECTION 12.0 – SANCTIONS FOR VIOLATION

An employer, contractor, subcontractor or union who violates this Ordinance or rules, regulations, or orders of the TERO Representative, shall be subject to sanctions for such violation. Such sanctions shall be remedial in nature and shall be designed and intended to compel compliance, prevent future violations, or compensate injured parties and shall include, but not be limited to:

- (a) Denial of right to commence or continue operations inside the Snoqualmie Indian Reservation;
- (b) Suspension of all operations inside the Reservation;
- (c) Payment of back pay and damages to compensate any injured party;
- (d) An order to summarily remove employees hired in violation of this TERO Ordinance;
- (e) Imposition of monetary civil fines;
- (f) An order requiring employment, promotion and training of Indians injured by the violation;
- (g) An order requiring changes in procedures and policies necessary to eliminate the

violation;

- (h) An order making any other provision deemed by the Commission and TERO Specialist necessary to alleviate, eliminate or compensate for any violation.
- (i) The maximum civil fine which may be imposed is \$500.00 for each violation. Each day during which a violation exists shall constitute a separate violation.

SECTION 13.0 – APPEALS

Any party to a hearing shall have the right to appeal any decision of the Commission to the Snoqualmie Tribal Court, which shall review the facts de novo (a whole new hearing over again), and the proceedings shall be on record.

SECTION 14.0 – TRIBAL TRAINING PROGRAMS

The Snoqualmie Tribe shall establish training programs, as funding permits, to prepare preferred employee for job opportunities developed pursuant to this Chapter and the Snoqualmie Tribal Employment Rights Program. The Snoqualmie TERO Representative shall coordinate with unions, and other agencies.

SECTION 15.0 – COMPLIANCE PLANS

As of the effective date of this Chapter, no new employer may commence work on the Snoqualmie Reservation until it has consulted with the Snoqualmie TERO Representative, negotiated and signed a Compliance Plan approved by the TERO Representative for meeting its obligations under this Chapter.

SECTION 16.0 – SEVERABILITY


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

SECTION 17.0 – PUBLICATION

The TERO Representative shall notify the prime contractor and employers of this Chapter and their obligation to comply. All bid announcements issued by any Tribal, Federal, State, or other private or public entity shall contain a statement that the successful bidder will be obligated to comply with this Chapter and all rules and regulations and orders of the Commission and TERO Representative. The TERO Representative shall provide a copy of this Chapter to every employer operating on the Reservation and any amendments or revisions thereto, by request of the employer. This TERO replaces and supersedes any and all prior TERO laws.

ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL ON THE 12TH DAY OF JULY, 2001 IN SESSION
DULY MET. RESOLUTION No. 38-01.

CODIFIED BY THE SNOQUALMIE TRIBAL SECRETARY ON THE 21 DAY OF October 2008.



TRIBAL SECRETARY 10-21-08