

AN ACT RELATING TO
SNOQUALMIE TRIBAL RECORDS AND PUBLIC ACCESS
BE IT ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL

SECTION 1.0 - TITLE AND CODIFICATION

This Chapter shall be known as the Snoqualmie Tribal Central Records and Public Access Act, and shall be codified as Title 5, Chapter 3 of the Snoqualmie Tribal Code.

SECTION 2.0 - STATUTORY AUTHORIZATION

The aboriginal and inherent sovereign power to govern 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, and by providing for the enactment and enforcement of laws of the Tribe. This authority includes the authority to adopt laws regulating the procedures of Tribal agencies and Tribal officials. Snoq. Tr. Const. Art. VIII, Sec. 1(o). In addition, the Office of the Secretary of Tribal Affairs is authorized to administer the provisions of this Chapter in accordance with Article IX, Section 1(f) of the Snoqualmie Tribal Constitution.

SECTION 3.0 – PURPOSE AND SCOPE

The purpose of this Chapter is to establish a legal framework for the receipt, care, custody, and administration of the official records of the Snoqualmie Indian Tribe. In addition, this Chapter sets forth the policies and procedures regarding the definition, management of, and access to Tribal records. It is hereby declared to be the policy of the Snoqualmie Indian Tribe to provide for efficient, economical and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all Tribal records through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of this Chapter and accepted records management practice.

SECTION 4.0 - DEFINITIONS

The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

ARCHIVES mean historical materials including books, correspondence, documents, papers, pamphlets, works of art, models, pictures, photographs, plats, maps, films, pictures, sound recordings, and other

Tribal records, objects or materials having historical or commemorative value to the Snoqualmie Indian Tribe.

CENTRAL RECORDS MANAGEMENT CENTER means an establishment, office or facility maintained and operated by the Central Records Management Department for the storage, servicing, security, and processing of Tribal records which need to be preserved for varying periods of time or destroyed after varying periods of time.

CENTRAL RECORDS MANAGEMENT DEPARTMENT means the Department established in section 6.0 of this Chapter.

CENTRAL RECORDS MANAGEMENT PLAN means the plan required in section 7.0 of this Chapter.

DIRECTOR means the Director of the Snoqualmie Tribal Central Records Management Department.

ESSENTIAL RECORD means any record of the Snoqualmie Indian Tribe necessary to the resumption or continuation of operations of the Tribe in an emergency or disaster, to the recreation of the legal and financial status of the Tribe, or to the protection and fulfillment of obligations to Tribal members and community members who receive vital Tribal services.

OFFICIAL TRIBAL RECORD means any grant, contract, resolution, law, or other official document that concerns and/or controls the governmental operations of the Snoqualmie Indian Tribe.

PERMANENT RECORD means any Tribal record for which the retention period on a records control schedule is designated as permanent.

PUBLIC RECORD means a Tribal record for which public access is authorized in accordance with the provisions of this Chapter.

RECORDS CONTROL SCHEDULE means a document prepared by or under the authority of the Central Records Department Director listing the records maintained by the Tribe, their retention periods, and other records disposition information that the records management program may require.

RECORDS MANAGEMENT means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

RECORDS LIAISON OFFICERS mean the persons designated under section __ of this Chapter.

RETENTION PERIOD means the minimum period of time that must pass after the creation, recording, or receipt of a Tribal record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

SECRETARY OF TRIBAL AFFAIRS means the Tribal Constitutional Officer having authority and responsibilities set forth in Article IX of the Snoqualmie Tribal Constitution.

SNOQUALMIE TRIBAL FACILITIES includes all facilities that house Snoqualmie Tribal offices, departments, businesses, entities and employees of any kind whatsoever, whether or not the facilities are located on fee or trust land, including Snoqualmie Casino.

TRIBAL ADMINISTRATOR means the person appointed by the Tribal Council to administer the affairs of the Tribe and carry out the laws and policies adopted by the Tribal Council.

TRIBAL RECORDS means all documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, electronic media or other information regardless of physical form or characteristics, created or received by the Snoqualmie Indian Tribe or any of its officers or employees pursuant to law or in the transaction of Tribal business. Such records are hereby declared to be the records of the Tribe and shall be created, maintained, and disposed of in accordance with the provisions of this Chapter and any regulations or policies adopted hereunder.

SECTION 5.0 - SECRETARY OF TRIBAL AFFAIRS

Article IX, Section 1(f) of the Snoqualmie Tribal Constitution provides that the Secretary of Tribal Affairs is responsible for the administration of this Chapter. The Secretary shall give reports to the Snoqualmie Tribal Council from time to time regarding the implementation of this Chapter.

SECTION 6.0 - CENTRAL RECORDS MANAGEMENT DEPARTMENT

There is hereby created the Central Records Management Department, headed by a Director of Central Records Management who shall be accountable to the Secretary of Tribal Affairs.

SECTION 7.0 - DUTIES OF THE CENTRAL RECORDS MANAGEMENT DEPARTMENT

On behalf of the Secretary of Tribal Affairs, the duties of the Central Records Management Department are to:

- (a) Administer the Tribe's central records management program and provide assistance to department heads in its implementation;

- (b) Plan, formulate, and prescribe records disposition policies, systems, standards, and procedures, known as a Central Records Management Plan, in consultation with the Tribal Administrator and department heads;
- (c) In cooperation with department heads and in consultation with the Tribe's Emergency Management Director, identify essential records and establish a disaster plan for each Snoqualmie Tribal Facility and department to ensure maximum availability of the records in order to re-establish operations quickly and with minimum disruption and expense during times of emergency;
- (d) Identify Official Tribal Records and turn over those records to the Secretary of Tribal Affairs for retention in the Office of the Secretary of Tribal Affairs.
- (e) Establish standards for filing and storage equipment and for recordkeeping supplies;
- (f) Study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for the Tribe;
- (g) Provide records management advice and assistance to all Tribal departments by preparation of a manual or manuals of procedure and policy and by on-site consultation;
- (h) Monitor records retention schedules and administrative rules issued by the Federal government and the State of Washington which may be made applicable to the Tribe by virtue of a contract, grant or other operation of Federal or Washington State law;
- (i) In consultation with the Tribe's In-House Legal Counsel, disseminate to the Tribal department heads information concerning Tribal, State or Federal laws and administrative rules relating to government records administration;
- (j) Instruct Records Liaison Officers and other personnel in policies and procedures of the central records management plan and their duties in the central records management program;
- (k) Direct Records Liaison Officers or other personnel in the conduct of records inventories in preparation for the development of records control schedules as required by this Chapter;
- (l) Ensure that the maintenance, preservation, microfilming, destruction, or other disposition of Tribal records is carried out in accordance with the policies and procedures of the central records management program and the requirements of federal and/or state law, if deemed to be applicable, in consultation with the Tribe's In-House Legal Counsel;
- (m) Report annually to the Secretary of Tribal Affairs, and Snoqualmie Tribal Council, on the implementation of the central records management plan in each department of the Snoqualmie Indian Tribe;

- (n) Develop and manage a budget for the operation of the Central Records Management Department and the Central Records Management Center, in consultation with the Tribal Administrator and the Secretary of Tribal Affairs; and
- (o) Bring to the attention of the Secretary of Tribal Affairs and the Tribal Administrator non-compliance by department heads or other Tribal personnel with the policies and procedures of the central records management program or this Chapter.

SECTION 8.0 - DUTIES AND RESPONSIBILITIES OF TRIBAL DEPARTMENT HEADS

In addition to all other duties assigned in this Chapter all Tribal department heads shall:

- (a) Cooperate with the Central Records Management Department in carrying out the policies and procedures established for the efficient and economical management of records and in carrying out the requirements of this Chapter;
- (b) Adequately document the transaction of government business and the services, programs, and duties for which the department head and his or her staff are responsible; and
- (c) Maintain the records in his or her care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the central records management program of the Tribe and the requirements of this Chapter.

SECTION 9.0 - DESIGNATION OF RECORDS LIAISON OFFICERS; DUTIES

Each department head shall designate a member of his or her staff to serve as Records Liaison Officer for the implementation of the records management program in the department. Persons designated as Records Liaison Officers shall be thoroughly familiar with all the records created and maintained by the department. In the event of the resignation, retirement, dismissal, or removal by action of the department head of a person designated as a Records Liaison Officer, the department head shall promptly designate another person to fill the vacancy. A department head may serve as Records Liaison Officer for his or her department. Records Liaison Officers shall:

- (a) Conduct or supervise the conduct of inventories of the records of the department in preparation for the development of records control schedules;
- (b) In cooperation with the Central Records Management Director coordinate and implement the policies and procedures of the records management program in their departments; and
- (c) Disseminate information to department staff concerning the records management program.

SECTION 10.0 - RECORDS CONTROL SCHEDULES; APPROVAL

- (a) The Central Records Management Department Director, in cooperation with department heads and Records Liaison Officers, shall prepare records control schedules on a department by department basis listing all records created or received by the department and the retention period for each record. Records control schedules shall also contain such other information regarding the disposition of Tribal records as the records management plan may require.
- (b) Each records control schedule shall be monitored and amended as needed by the Central Records Management Department Director on a regular basis to ensure that it is in compliance with records retention schedules issued by the Tribe and that it continues to reflect the recordkeeping procedures and needs of the department and the records management program of the Tribe.
- (c) Before its adoption, a records control schedule or amended schedule for a department must be approved by the department head and the Secretary of Tribal Affairs.

SECTION 11.0 - IMPLEMENTATION OF RECORDS CONTROL SCHEDULES; DESTRUCTION OF RECORDS

- (a) A records control schedule for a department that has been approved and adopted under Section 11.0 shall be implemented by department heads and Records Liaison Officers according to the policies and procedures of the central records management plan.
- (b) A record whose retention period has expired on a records control schedule shall be destroyed unless an open records request is pending, the subject matter of the record is pertinent to a pending lawsuit, or the department head requests in writing to the Central Records Management Department Director that the record be retained for an additional period.
- (c) Prior to the destruction of a record under an approved records control schedule, authorization for the destruction must be obtained by the Central Records Management Department Director.

SECTION 12.0 - DESTRUCTION OF UNSCHEDULED RECORDS

A record that has not yet been listed on an approved records control schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under an approved schedule and the Central Records Management Department Director has submitted to, and received back from the director, an approved destruction authorization request.

SECTION 13.0 - RECORDS RETENTION CENTER

A records retention center, developed pursuant to the plan required by section 7.0, shall be under the direct control and supervision of the Central Records Management Department Director. Policies and procedures regulating the operations and use of the records center shall be contained in the records management plan developed under section 7.0.

SECTION 14.0 - TRIBAL RECORDS DECLARED TO BE TRIBAL PROPERTY

All Tribal records in whatever form are declared to be the property of the Snoqualmie Indian Tribe. No Tribal official or employee has, by virtue of his or her position, any personal or property right to Tribal records even though he or she may have created, developed or compiled them during the scope of their duties as a Tribal employee. The unauthorized destruction, removal or use of Tribal records is prohibited and may constitute a crime under the Snoqualmie Tribal Criminal Code.

SECTION 15.0 - ACCESS TO TRIBAL RECORDS

- (a) Snoqualmie Tribal members shall have a general right of access to inspect, review and copy Tribal records, except where such records have been determined to be precluded from disclosure because of confidentiality, privacy requirements, law enforcement duties or other circumstances where a Tribal, Federal or Washington State law, regulation or policy restricts or prohibits access or disclosure.
- (b) Access to Tribal records by persons and organizations who are not members of the Snoqualmie Indian Tribe shall be at the sole discretion of the Snoqualmie Tribal Council. On the advice of the Secretary of Tribal Affairs, the Tribal Council may adopt rules granting limited access to Tribal records by persons and organizations who are not members of the Snoqualmie Indian Tribe.
- (c) It is the policy of the Snoqualmie Indian Tribe to grant access to Tribal records where the provisions of its grants, contracts or other agreements require such access, but only to the extent required by such grants, contracts or other agreements.

SECTION 16.0 - RECORDS EXEMPT FROM DISCLOSURE

The following records of the Snoqualmie Indian Tribe are exempt from access and disclosure:

- (a) Police and investigatory records maintained by the Snoqualmie Tribal Police Department, subject to the special requirements set forth in sections 18.0, 19.0, 20.0 of this Chapter;
- (b) Medical and beneficiary records protected under Federal, State or Tribal law, policy or regulation governing the protection of such records;
- (c) Tribal personnel records;

- (d) Trade secrets and commercial or financial information;
- (e) Records related solely to the internal personnel rules and practices of the Snoqualmie Indian Tribe;
- (f) Enrollment records of the Snoqualmie Indian Tribe;
- (g) Records protected by attorney-client privilege.

The Secretary of Tribal Affairs may further implement sections 16.0 and 17.0 of this Chapter through the issuance of rules, regulations or policy documents.

SECTION 17.0 - SPECIAL PROVISIONS CONCERNING ACCESS TO POLICE RECORDS

The following information maintained by the Snoqualmie Tribal Police Services regarding matters involving investigations, law enforcement, and crime victims is exempt from public inspection and copying under this Chapter:

- (a) Specific intelligence information and specific investigative records compiled by the Snoqualmie Tribal Police Services, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy;
- (b) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with the Snoqualmie Tribal Police Services, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern;
- (c) Any records of investigative reports prepared by any Tribal, state, county, municipal, or other law enforcement agency that are in possession of the Tribe pertaining to sex offenses as defined in Snoqualmie Tribal law, or sexually violent offenses as defined in the Snoqualmie Criminal Code; and
- (d) Information revealing the identity of child victims of sexual assault who are under the age of eighteen (18). Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator.

SECTION 18.0 - POLICE RECORDS SUBJECT TO PUBLIC ACCESS

The following records and information generated and/or maintained by the Snoqualmie Tribal Police Services may be released to the public, upon request, provided that their release does not violate Sections 17.0, 18.0 or 19.0 of this Chapter:

- (a) Police records;
- (b) Police blotters and charging sheets;
- (c) Criminal conviction histories;
- (d) Traffic charges and dispositions;
- (e) Wanted or warrant information on dangerous persons;
- (f) Crime statistics and crime prevention materials;
- (g) Evidence or evidentiary information produced at the direction of rules or orders of any court of competent jurisdiction;
- (h) Other information if the Chief of the Snoqualmie Tribal Police Services, in consultation with the Central Records Management Department Director, finds that its release would be in the public interest for the purposes of securing the ends of justice and would not harm the interests of the Snoqualmie Indian Tribe.

The provisions of this section may be further supplemented through the issuance of regulations, rules, policies or procedures by the Snoqualmie Tribal Police Services, in consultation with the Central Records Management Department Director and subject to the approval of the Secretary of Tribal Affairs. Prior to the release of any information to a charged or convicted person, the Snoqualmie Tribal Police Services may redact information to protect witnesses, exclude investigatory information and techniques or other matters that might otherwise impede a police investigation.

SECTION 19.0 - POLICE RECORDS MANAGEMENT POLICY

- (a) The Snoqualmie Tribal Police Services shall, within one year from the date of the adoption of this Chapter and in consultation with the Central Records Management Department Director and subject to the approval of the Secretary of Tribal Affairs, enact a records management and access policy consistent with the mission of the department and the requirements of this Chapter.
- (b) The policy required in subsection (a) of this Chapter shall require retention of:
 - (1) records regarding all reasonably divisible real property, facilities, equipment, and personal property acquired by the Snoqualmie Tribal Police Services in accordance with the Indian Self Determination and Education and Assistance Act ("ISDEAA"), 25 U.S.C. § 105(f)(2)(A);

- (2) records maintained to support the Snoqualmie Tribal Police Services ISDEAA contract with the Bureau of Indian Affairs, such as contract award documents, any and all modifications to the contract, financial records and any other records created or maintained as a result of the ISDEAA contract;
 - (3) applications for assistance from the BIA Justice Program, case files and criminal statistical reports and correspondence;
 - (4) all records and files that pertain to criminal investigations;
 - (5) evidence;
 - (6) number of Tribal arrests;
 - (7) number of federal misdemeanor or felony arrests and investigations (if authorized);
 - (8) number of traffic accidents and other pertinent information relating to those accidents;
 - (9) number and types of calls for service;
 - (10) number of court services, including warrants, subpoenas, court orders, etc.;
 - (11) number of prisoners transported, incarcerated and daily detention records;
 - (12) number of prisoner means served;
 - (13) police investigative reports;
 - (14) radio logs;
 - (15) annual facilities maintenance reports; and
 - (16) all law enforcement records and reports required to be developed and maintained in accordance with the ISDEAA contract with BIA for law enforcement.
- (c) The policy required in subsection (a) of this section shall comply with applicable requirements in the Snoqualmie Tribal Constitution, the Snoqualmie Criminal Code, the ISDEAA, 25 C.F.R. Parts 10, 12, 63, 900 Subpart F, Tribal and federal court decisions, and the Bureau of Indian Affairs Law Enforcement Services Handbook.

SECTION 20.0 - PUBLIC REQUESTS FOR TRIBAL RECORDS

- (a) Any Snoqualmie Tribal member may file a written request to inspect, review or receive Tribal records that may be available pursuant to the provisions of this Chapter or the regulations and/or policies that implement the provisions of this Chapter. The request shall be in writing by a letter to the Secretary of Tribal Affairs or her designee. Alternatively, the request may be submitted on an information request form issued by the Secretary of Tribal Affairs, or her designee. The requesting party must describe the nature of his or her request with reasonable certainty in order for the Tribe to determine the location and availability of the Tribal record(s) being requested.
- (b) Non-Snoqualmie Tribal members may file information requests in accordance with subsection (a) of this section. Such requests shall be processed pursuant to the provisions of section 16.0 of this Chapter.

SECTION 21.0 - TRIBAL RESPONSE TO TRIBAL RECORDS REQUESTS

- (a) The Secretary of Tribal Affairs shall normally answer Tribal records requests within ten (10) business days from the time that the request is received. However, the Tribe may take up to thirty (30) days to respond initially to a request if the Tribal record(s) requested is complex, requires significant research or involves special internal consultation before the record(s) can be released. The Secretary of Tribal Affairs may grant or deny a Tribal records request in whole or in part. The decision of the Secretary of Tribal Affairs is final for non-Tribal members. Tribal members can appeal the Secretary's decision to the Snoqualmie Tribal Council. The Tribal Council's decision shall constitute a final decision subject to appeal to the Snoqualmie Tribal Court.
- (b) An appeal filed with the Snoqualmie Tribal Council pursuant to subsection (b) of this section shall be in writing by letter or on an appeal form supplied by the Secretary of Tribal Affairs. The appeal must explain the nature of the Tribal records request and why it should not have been denied. The appealing party must attach a copy of the prior decision by the Secretary denying the Tribal records request and provide any new information and reasons why the Tribal Council should reverse of the Secretary. The Tribal Council, at its sole discretion, may invite the appealing party to personally appear to present the appeal but is not required to do so.

SECTION 22.0 – MEDICAL RECORDS; SPECIAL PROVISIONS

- (a) It is the policy of the Snoqualmie Indian Tribe to protect the confidentiality of patient medical records to the greatest extent consistent with the requirements of all applicable federal, state and Tribal laws.
- (b) The Snoqualmie Tribal Health Administrator is directed to create a Medical Records Protection Policy, in consultation with the Central Records Department Director and the Health Board and subject to the approval of the Secretary of Tribal Affairs.

SECTION 23.0 – SNOQUALMIE TRIBAL COURT RECORDS; SPECIAL PROVISIONS

The Clerk of the Snoqualmie Tribal Court is directed to create a Snoqualmie Tribal Court Records Policy, in consultation with the Central Records Department Director and subject to the approval of the Secretary of Tribal Affairs.

SECTION 24.0 – TRIBAL RECORDS ARE NOT FEDERAL RECORDS

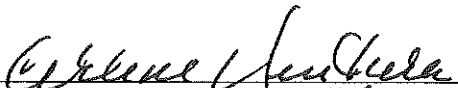
Tribal records shall not constitute “Federal records” as that term is defined under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, even those Tribal records that are produced and/or obtained pursuant to a contract or agreement with the Federal government. Tribal records may constitute Federal records for purposes of FOIA only if the Snoqualmie Tribal Council expressly agrees to the treatment of Tribal records as such.

SECTION 25.0 – REPEAL OF PRIOR TRIBAL RECORDS ACTS

Any prior acts and Tribal Council resolutions concerning Tribal records management and access to Tribal records are hereby repealed upon the adoption of this Chapter. Specifically, Section 8 of the Snoqualmie Tribal Council Procedures Act of 2003 is hereby repealed.

ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL ON THE 28TH DAY OF AUGUST, 2008 IN SESSION DULY MET, WITH 8 FOR, 0 AGAINST, AND 0 ABSTAINING. RESOLUTION NO. 105-08.

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



TRIBAL SECRETARY 10-21-08