

TITLE 8

JUVENILES

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TITLE 8

JUVENILES

Chapter 8.01 Criminal Procedure

8.01.01 Definitions

The following definitions shall apply to the words below when they appear in this chapter:

- 1) "Custodian" means any person eighteen years old or more having physical custody of a minor by providing food, shelter and supervision for the minor.
- 2) "Guardian" means any person other than a parent having legal responsibility for a minor.
- 3) "Minor" means a person under the age of eighteen (18) years and any person against whom proceedings were commenced under this chapter prior to his or her eighteenth birthday.

[HIST: Source - Resolution No. 84 A 22, passed 8/23/84.]

8.01.02 Notice

In all proceedings involving a minor, including civil traffic infractions, notice of the proceedings shall be given to the minor and his parent, guardian or custodian and their spokespersons, if any, within the time limits prescribed for that particular proceeding.

[HIST: Source - Resolution No. 84 A 22, passed 8/23/84.]

8.01.03 Rights of Juveniles

Minors appearing before the Port Gamble S'Klallam Community Court shall have the same rights as adults appearing before the Court under like circumstances.

[HIST: Source - Resolution Number 84 A 22, passed 8/13/84.]

8.01.04 Hearings

Hearings before the Port Gamble S'Klallam Community Court where the defendant is a minor shall be closed to all persons except the parties and their counsel and those witnesses called by the parties. The parent, custodian or guardian shall be present at all hearings unless their presence is waived by the Court for good cause shown.

[HIST: Source - Resolution No. 84 A 22, passed 8/23/84.]

8.01.05 Records

Court and police records of minor defendants shall be confidential. Records may be made available only to:

- 1) The minor and his spokesperson;
- 2) The minor's parent, custodian, or guardian;
- 3) The Tribe's prosecutor or spokesperson; and
- 4) The Port Gamble S'Klallam Tribal Council. The Tribal Council and the Court have authority to share summary information on juveniles who have been convicted of a crime and who have committed civil infractions, including traffic infractions, with members of a Tribal Council authorized Juvenile Offender Panel.
- 5) The Court may provide orders in juvenile cases to service providers from whom a juvenile or his family is required to obtain services such as, but not limited to, child support, Indian Child Welfare, mental health or chemical dependency counselors.

[HIST: Source - Resolution No. 84 A 22, passed 8/23/84. Access to records by the Tribe's professional mental health counselor is intended to assist the counselor in evaluating and assisting individuals with mental health problems both while they are minors and as adults. Resolution No. 00 A 62, passed 9/12/00 amended this section by adding a new subsection 4 and 5.]

8.01.06 Parental Responsibility

It shall be the obligation of any parent, guardian or custodian to:

- 1) Personally attend and assure the attendance of the minor at all hearings of the Court as well as meetings with Court personnel, and participate in any other support services the Court may require;
- 2) Provide transportation for the minor to and from Court, and to and from treatment facilities;
- 3) Supervise the minor's compliance with all orders of the Court and conditions of release and probation, including, but not limited to curfew and school attendance;
- 4) Pay any restitution or fines, the juvenile's incarceration costs or a portion thereof, imposed by the Court if the Court determines that the payment by the parent is in the best interests of justice;

[HIST: Source - Resolution No. 84 A 22, passed 8/23/84. Access to records by the Tribe's professional mental health counselor is intended to assist the counselor in evaluating and assisting individuals with mental health problems both while they are minors and as adults. Resolution No. 00 A 62, passed 9/12/00 added this section.

Resolution No. 05-A-054, passed 6/14/05 added subsection (c). Subsection (c) reflects the Tribe's value that juveniles must bear responsibility for their actions and should be punished for criminal conduct, but where a juvenile has caused substantial damage that can be compensated monetarily, the parent is ultimately responsible for compensating the injured party.] Section 8.01.06 was amended entirely to require more parental involvement by Resolution 10-A-064)

8.01.07 Other Rules Applicable

Where a process is not specified in this chapter, cases involving minor defendants or their parent, guardian, or custodian shall proceed under the same provisions applicable to adults in like circumstances.

[HIST: Source - Resolution No. 84 A 22, passed 8/23/84.]

Chapter 8.02 Civil Procedure

8.02.01 Notice of Infraction

A Port Gamble S'Klallam police officer has the authority to issue a notice of civil infraction:

- a) When it occurs in the officer's presence; and
- b) When an officer investigating a report of a civil infraction finds reasonable cause to believe a civil infraction has been committed.

Notice of the infraction shall be given to both the minor and to his/her parent, guardian, or custodian.

[HIST: Source – Resolution 89-A-51, passed 4/27/89. Resolution 18-A-101, passed 9/17/18, moved this section from previous Title 15 Civil Infractions to Title 8 Juvenile Code because there are only 2 current civil infractions under PGST law and both concern minors.]

8.02.02 Notice of Civil Infraction – Contents

A notice of civil infraction shall be filed on a form authorized by the Tribal Council or by the Community Court.

[HIST: Source – Resolution No. 89-A-51, passed 4/27/89. Amended by Resolution 18-A-101, passed 9/17/18.]

8.02.03 Notice of Civil Infraction – Time and Manner of Response

A person who has been issued a notice of civil infraction must respond to the notice within ten days of the date the notice was actually received or reasonably should have been received. The response may be in person or by mail. If mailed, the response must be postmarked no later than midnight on the date the response is due.

[HIST: Source – Resolution No. 89-A-51, passed 4/27/89. Amended by Resolution 18-A-101, passed 9/17/18.]

8.02.04 Notice of Civil Infraction – Three Options for Response

A person may respond to a notice of civil infraction in one of the following ways:

- a) Pay the fine. The Community Court shall then enter a judgment that the person committed the civil infraction. This option is not available when a mandatory appearance is required for a particular infraction.
- b) Request a hearing to explain the circumstances surrounding the occurrence of the civil infraction which might arguably lessen the amount of the fine; or
- c) Request a hearing to contest the determination that the infraction occurred.

[HIST: Source – Resolution No. 89-A-51, passed 4/27/89. Amended by Resolution 18-A-101, passed 9/17/18.]

8.02.05 Failure to Respond

If a person fails to respond to a notice of civil infraction, the Community Court shall enter an order finding that the person committed the civil infraction and assess the appropriate fine. The Court may enforce the order through its contempt powers under the Port Gamble S’Klallam Law and Order Code.

[HIST: Source – Resolution No. 89-A-51, passed 4/27/89. Amended by Resolution 18-A-101, passed 9/17/18.]

8.02.06 Hearings

Hearings under this title shall be conducted consistent with sections 9.02.08, 9.02.09, 9.02.10, and 9.02.11 of the Port Gamble S’Klallam Law and Order Code.

[HIST: Source – Resolution No. 89-A-51, passed 4/27/89. Amended by Resolution 18-A-101, passed 9/17/18.]

Chapter 8.03 Civil Infractions

8.03.01 Allowing Minors to Party on Premises—REPEALED

[HIST: Source – Resolution 89-A-51, passed 4/27/89. Resolution 18-A-101, passed 9/17/18, moved and repealed this section from previous Title 15 Civil Infractions to Title 8 Juvenile Code. This section was repealed because, as of 2010, Title 5 the Criminal Code contains Social Host Liability, which makes allowing minors to party on premises a criminal violation.]

8.03.02 Minor in Possession of Alcohol – REPEALED

[HIST: Source - Resolution No. 02-A-108, passed 12/17/02, repealed this section and reinstated it in the criminal code. Resolution No. 89-A-51, passed 4/27/89. Amended by Resolution 18-A-101, passed 9/17/18, moved this section from Title 15 Civil Infractions to Title 8 Juveniles.]

8.03.03 Minor Under the Influence of Alcohol - REPEALED

[HIST: Source - Resolution No. 02-A-108, passed 12/17/02, repealed this section and reinstated it in the criminal code. Resolution No. 89-A-51, passed 4/27/89. Amended by Resolution 18-A-101, passed 9/17/18, moved this section from Title 15 Civil Infractions to Title 8 Juveniles.]

8.03.04 Curfew

Any person under the age of eighteen (18) years found on the reservation's public areas, including its streets, roadways and paths, between the hours of 12:01 a.m. and 5:00 a.m. Saturdays and Sundays; and from 10:00 p.m. Sunday through Thursday nights, until 5:00 a.m. on the mornings following Sunday through Thursday nights, has committed a civil infraction.

"Public areas" shall mean any place on the reservation except those land assignments where people currently reside.

A person is not in violation of this code if:

- a) He or she is accompanied by a parent, guardian or custodian; or
- b) He or she is going to or coming from a regularly scheduled tribal, school, or religious function, or his or her employment, and is proceeding by the nearest route to or from his or her home.

A court appearance for this infraction shall be mandatory. Upon finding that a person committed the infraction, the Court shall impose a minimum mandatory fine of not less than \$50.00 and not to exceed \$100.00 for the first violation of this section. For second and subsequent violations of this section, the Court shall impose a mandatory fine of \$100.00. The Court shall not have authority to impose community service in lieu of the fine for this infraction.

[Source - Adopted 4/23/90. Resolution 96 A 078, passed 10/8/96 renumbering. Amended by Resolution 18-A-101, passed 9/17/18, moved this section from Title 15 Civil Infractions to Title 8 Juveniles.]

8.03.05 Minor in Possession of Tobacco

Any person under the age of eighteen years of age who shall possess, purchase, consume, obtain, or sell any product containing tobacco has committed a civil infraction.

A court appearance for this infraction shall be mandatory. Upon finding that the person committed the infraction, the Court shall impose a fine not to exceed \$100.00.

[HIST: Source - Resolution No. 96 A 035, passed 2/22/96. Resolution 96 A 078, passed 10/8/96 renumbering. Amended by Resolution 18-A-101, passed 9/17/18, moved this section from Title 15 Civil Infractions to Title 8 Juveniles.]