

Shoalwater Bay Indian Tribe Code Of Laws



Title 16 Civil Infractions

Public Hearing:	January 23, 1991
Adopted:	January 31, 1991
Resolution #:	01-31-91-06
Amended:	June 24, 1993
Resolution #:	06-24-93-38

Shoalwater Bay Indian Tribe Code Of Laws



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Shoalwater Bay Indian Tribe Code Of Laws



TITLE 16 CIVIL INFRACTIONS

Chapter 16.1 Civil Infractions - Generally

16.01.01 Purpose

The Shoalwater Bay Tribal Council adopts Title 16 for the purpose of providing a process for handling non-traffic civil infractions occurring within the jurisdiction of the Shoalwater Bay Indian Tribe. A civil infraction is a wrongful act or omission, which harms the Tribal community. A person who commits a civil infraction shall be required to pay a fine to compensate the Tribe for this harm and be subject to payment of restitution and possible impoundment or forfeiture of any objects used in any manner to facilitate a violation of this Title.

16.01.02 Sections Incorporated By Reference

The following Sections of Title 3 [Traffic] of the Shoalwater Bay Tribe's Code of Laws are incorporated by reference and are part of this Code: §3.1.020 Jurisdiction, §3.1.030 Means of Exercising Jurisdiction, and §3.1.040 Effect of Invalidity.

Chapter 16.2 Civil Infraction Procedure

16.02.01 Notice of Infraction

A Shoalwater Bay police officer has the authority to issue a Notice of Civil Infraction:

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

16.02.02 Notice of Civil Infraction - Contents

A Notice of Civil Infraction shall be filed on a form authorized by the Tribal Council or by the Tribal Court.

16.02.03 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 fifteen 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.

16.02.04 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 Tribal 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.

16.02.05 Failure to Respond

If a person fails to respond to a Notice of Civil Infraction, the Tribal 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 Shoalwater Bay Tribe Court Procedures Code.

16.02.06 Hearings

Hearings under this Title shall be conducted consistent with Sections 3.3.070, 3.3.080, 3.3.090, and 3.3.100 of the Shoalwater Bay Tribe Code of Traffic Laws.

16.02.07 Parental Responsibility

Under this Title, parent(s) and legal guardians are responsible for the acts of the minor. If the minor is under fourteen (14) years of age, the parent(s) or legal guardian(s) will be held wholly responsible for the act of the minor and thus, shall be required to pay any fine imposed. In cases where the minor is fourteen (14) through seventeen (17) years of age, the Court, in its discretion, may require either the parent(s) or legal guardian(s) of the minor to pay the fine or may apportion the fine between them in a manner, which to the Court seems just.

16.02.08 Minors–Repeat Violators Subject to Youth-in-Need of Care Petitions

If a minor commits three or more violations of this Title within a year's time, the Tribe may file a Youth-in-Need of Care Petition with the Court, in addition to proceedings under this Code.

16.02.09 Community Service

Under this Title, the Tribal Court is given the discretion to order Community Service, in lieu of or in conjunction with any fine imposed, against any person found to have committed a civil infraction, when:

- a) Permission is obtained from the Tribal Law Enforcement Office, the Shoalwater Bay Tribal Council; and
- b) The Tribal Law Enforcement Office indicates to the Court that Tribal supervision is available.

16.02.10 Restitution

Upon finding that a person committed an infraction, the Court shall order the violator to pay restitution to all those damaged in their person or property due to the commission of the infraction in addition to any fine imposed. The Tribal Court shall not have the discretion to order community service in lieu of restitution.

16.02.11 Impoundment and Forfeiture

In addition to any fine or restitution imposed against any person found to have committed a civil infraction, all objects or vehicles used in connection with the commission of an infraction are subject to impoundment and/or unconditional forfeiture, pursuant to the provisions of Titles 17 and 18. All Sections of Title 17 (General Impoundment Code) and Title 18 (Vehicle Impoundment Code) are incorporated by reference and are a part of this Code.

Chapter 16.3 Sovereign Immunity, Severability

16.03.01 Sovereign Immunity Preserved

The sovereign immunity of the Shoalwater Bay Indian Tribe shall in no manner be waived by this Title. The Tribal Council, Court personnel, employees, and Tribal representatives are cloaked with the sovereign immunity of the Shoalwater Bay Indian Tribe.

16.03.02 Severability

If any provision of this Title or its application to any person or legal entity or circumstances, is held invalid the remainder of this Title or the application of its provision to other person or legal entities or circumstances shall not be affected.

Chapter 16.4 Civil Infractions

16.04.01 Curfew

- a) Any person fifteen (15) through seventeen (17) years of age, found on the reservation's public areas, including its streets, roadways and paths between the hours of 12:00 midnight and 5:00 a.m. has committed a civil infraction, unless they are accompanied by someone with parental permission, who is at least eighteen (18) years old.
- b) Any person ten (10) through fourteen (14) years of age, found on the reservation's public areas, including, but not limited to, its streets, roadways and paths between the hours of 11:00 p.m. and 5:00 a.m. has committed a civil infraction.
- c) Any person under ten (10) years of age, found on the reservation's public areas, including its streets, roadways and paths, after dusk has committed a civil infraction.

A Court appearance for this infraction shall be mandatory.

Upon finding that a person committed the infraction, the Court shall impose a civil fine not to exceed \$100.00 for a first violation.

For a second and subsequent violation of this Section, the Court shall impose a minimum mandatory fine of \$75.00 not to exceed \$175.00.

16.04.02 Off-Road Vehicle Curfew

Any person who operates an "off-road vehicle" between the hours of 11:00 p.m. and 5:00 a.m. within the boundaries of the Shoalwater Bay Reservation has committed a civil infraction, unless the person has obtained a valid permit issued by the Tribe that allows for off-hour use of their vehicle. The criteria for obtaining a permit shall be established by Tribal Resolution issued by the Shoalwater Bay Tribal Council. For purposes of this Section, "off-road vehicle" shall mean any motorized vehicle designed primarily for recreational travel on trails and non-highways that is either ineligible for licensing under the laws of the State of Washington or is eligible but has not been issued a license.

A Court appearance for this infraction shall be mandatory if the person being issued the Notice of Civil Infraction is under fourteen (14) years of age or a previous violator of this Section.

In accordance with Section 16.02.040 of this Title, a person not required to appear under this Section, who is issued their first Notice of Civil Infraction under this Section, may either pay the fine or request a hearing. A fine of \$50.00 shall be imposed against a first time violator of this Section.

Upon finding that a previous violator of this Section has committed the infraction, the Court shall impose a minimum mandatory fine of \$75.00 not to exceed \$250.00.

16.04.03 Littering

Any person who places, throws, deposits or otherwise disposes of litter anywhere other than in containers or areas designated for the deposit of litter, within the boundaries of the Shoalwater Bay Reservation, including, but not limited to, waterways, tidelands and public roadways, has committed a civil infraction. The term "litter" means and includes refuse, cars, fireworks debris, home appliances, animal carcasses, rubbish, garbage and all other waste material of every kind and description.

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 \$1,000.00.

16.04.04 Public Disturbance Noises

Any person, who between the hours of 11:00 p.m. Friday until 9:00 a.m. Saturday, 11:00 p.m. Saturday until 9:00 a.m. Sunday and from 9:00 p.m. Sunday through Thursday nights until 9:00 a.m. on the mornings following Sunday through Thursday nights, causes or allows a public disturbance noise to originate from property he or she is in possession of, has committed a civil infraction. The following sounds are determined to be public disturbance noises:

- a) Frequent, repetitive or continuous sounds made by any animal which unreasonable disturbs or interferes with the peace, comfort, or rest of the Shoalwater Bay Reservation community members;
- b) The frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by Code or regulation of the Shoalwater Bay Tribe;
- c) The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle or any internal combustion engine, so as to unreasonably disturb or interfere with the peace, comfort and rest of Shoalwater Bay Reservation community members;
- d) The creation of sound by use of a musical instrument, radio, television, tape or compact disc player that unreasonably disturbs or interferes with the peace, comfort and rest of Shoalwater Bay Reservation community members;
- e) The creation of frequent, repetitive or continuous sounds in connection with building construction, remodeling or repair work that unreasonably disturbs or interferes with the peace, comfort and rest of Shoalwater Bay Reservation community members; or
- f) The creation of frequent, repetitive, or continuous sounds in connection with the lighting off of fireworks, so as to unreasonably disturb or interfere with the peace, comfort and rest of Shoalwater Bay Reservation community members. This subsection shall be

enforced from 11:00 p.m. to 9:00 a.m. Monday through Sunday during the period of June 15 and July 15.

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 \$250.00.

16.04.05 Destruction of Public Property

Any person who injures, destroys, or defaces any building or other property owned by the Shoalwater Bay Tribe or the United States Government, has committed a civil infraction. "Property" shall mean and include all land within the Shoalwater Bay Reservation including, but not limited to, waterways, tidelands, and roadways.

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 \$5,000.00.

16.04.06 Destruction of Private Property

Any person who tampers with, injures, or defaces any building or other tangible property not his own, has committed a civil infraction. Private property shall include, but not be limited to, cars, homes, gardens, fences, and stables.

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 \$5,000.00.

16.04.07 Trespass

Any person, who shall remain in or on any building, land, or separately secured or occupied portion thereof, whether by day or night, without consent, has committed a civil infraction. "Building" and "land" shall mean and include any land, building, structure, or place within the boundaries of the Shoalwater Bay Reservation.

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 \$500.00.

16.04.08 Minor in Possession of Alcohol

Any person under the age of twenty-one (21) years of age who shall possess, purchase, consume, obtain, or sell any alcoholic beverage has committed a civil infraction. The term

“possess” shall include both actual and constructive possession. Actual possession means that the alcohol was found on the person of the defendant. Constructive possession means that the defendant had dominion and control over the alcohol or the location where the alcohol was found. Dominion and control need not have been exclusive to the suspect.

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 \$500.00 and/or require the minor to participate in either the Tribal Alcohol Program or another program that more closely fits the needs of the minor.

16.04.09 Minor Under the Influence of Alcohol

Any person under the age of twenty-one (21), found to be under the influence of any alcoholic beverage, has committed a civil infraction. For purposes of this Section, “under the influence” shall mean the consumption of any amount of alcohol by a minor.

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 \$500.00 and/or require the minor to participate in either the Tribal Alcohol Program or another program that more closely fits the needs of the minor.

16.04.10 Adulteration of Food or Drink

Any person who shall manufacture, sell, keep, offer for sale, or offer without charge, any food, drug, or drink which contains a substance likely to cause immediate harm 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 \$5000.00.

16.04.11 Possession of Firearms, Minors

- a) Any person fourteen (14) through eighteen (18) years of age, who shall possess a firearm in any manner, for any purpose, within the boundaries of the Shoalwater Bay Indian Reservation has committed a civil infraction, unless:
 - (i) They have passed a firearm safety course, certified by the Tribe or the State;
or
 - (ii) Are accompanied by a parent or legal guardian who meet(s) all of the Tribe’s requirements and specifications for possession of a firearm within the boundaries of the Reservation.

- b) Any person under fourteen (14) years of age, who shall possess a firearm in any manner, for any purpose within the boundaries of the Shoalwater Bay Reservation has committed a civil infraction, unless they are accompanied by a parent or legal guardian who meets all of the Tribe's requirements and specifications for possession of a firearm within the boundaries of the Reservation.

For purposes of this Section, "firearm" shall mean any weapon, which will, or is designed to or may readily be converted to expel a projectile, including BB guns, bow and arrows, slingshots and wrist rockets.

For purposes of this Section, "possess" shall mean and include both actual and constructive possession. Actual possession means that the firearm was found on the person of the defendant. Constructive possession means that the defendant had dominion and control over the firearm or the location where the firearm was found. Dominion and control need not have been exclusive to the suspect.

A Court appearance for this infraction shall be mandatory.

Upon finding that the person committed the infraction, the Court shall impose a civil fine not to exceed \$1,000.00.

16.04.12 Dangerous Use of Firearms

Any person who shall use a firearm on the Shoalwater Bay Reservation in a manner that is dangerous to persons, property, or non-game animals has committed a civil infraction. A person who discharges a firearm in any building within the Reservation or who uses a firearm in a manner that is contrary to the Tribe's firearm safety course, the Tribe's hunting regulations or any Federal hunting or firearm regulation(s) is in automatic violation of this Section.

For purposes of this Section, "firearm" shall mean any weapon, which will, is designed to, or may readily be converted to expel a projectile, including BB guns, bow and arrows, slingshots and wrist rockets.

A Court appearance for this infraction shall be mandatory.

Upon finding that the person committed the infraction, the Court shall impose a civil fine not to exceed \$1,000.00 and may require adult violators to attend a Tribal or State firearm safety course in addition to any fine and/or restitution imposed.

16.04.13 Dangerous Use of Fireworks

Any person who shall use fireworks on the Shoalwater Bay Reservation in a manner that is dangerous to human life, dangerous to animal life or dangerous to property has committed a civil infraction. A person who uses fireworks within 75 feet of any building is in automatic violation of this Section.

A Court appearance for this infraction shall be mandatory if the person being issued the Notice of Civil Infraction is under fourteen (14) years of age or a previous violator of this Section.

In accordance with Section 16.02.040 of this Title, a person not required to appear under this Section, who is issued their first notice of civil infraction, may either pay the fine or request a hearing. A fine of \$10.00 shall be imposed against a first time violator of this Section.

Upon finding that a previous violator of this Section has committed the infraction, the Court shall impose a minimum mandatory fine of \$25.00 not to exceed \$100.00.

16.04.14 Failure to Send Children to School

Any person who shall neglect or refuse to send to school a child or children under his or her care who has/have not reached their sixteenth (16th) birthday or have not completed the tenth (10th) grade, whichever occurs first, 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 \$500.00.

16.04.15 Disorderly Conduct

Any person who acts in a manner that disrupts the public order, peace, or welfare of the Shoalwater Bay Indian Tribe or its residents has committed the infraction of disorderly conduct. A person is engaged in disorderly conduct if he or she:

- a) Uses abusive, vulgar, profane, obscene or indecent language or behaves in an indecent manner, when such language or conduct intentionally creates a risk of assault or a civil disturbance; or
- b) By actions or words, intentionally annoys, badgers, harasses, taunts, insults any person; or
- c) Purposefully and without lawful authority, disrupts any lawful assembly or meeting of persons; or
- d) Purposefully and without lawful authority, obstructs vehicular or pedestrian traffic; or
- e) Suffers or permits, in any building or on property owned by or is under that persons control, any riotous or disorderly conduct or drunkenness or fighting to the annoyance of the public; or
- f) Unlawfully obstructs, tampers or opens any water system on the Shoalwater Bay Reservation; or
- g) Herds or drives livestock through the Shoalwater Bay Indian Reservation in a manner likely to endanger or person or property; or
- h) Removes, destroys, defaces, or in any manner alters or changes the writing, printing or signature, of any bulletin, poster, legal notice or advertisement, that has been posted or placed on the Shoalwater Bay Indian Reservation and has been authorized by the Tribal Council. This Section shall not apply to officers or employees of the Tribe who are duly authorized to perform such acts; or

- i) Consumes liquor or intoxicating beverages while on a public street or sidewalk or while in Tribally-owned buildings unless authorized by the Tribal Council; or
- j) Performs any other acts not specifically described above which disturbs public peace, provokes disorder or endangers the safety of others.

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 \$250.00.



SHOALWATER BAY INDIAN TRIBE

Tokeland, Washington 98590

Telephone 267-6766

SHOALWATER BAY INDIAN TRIBE RESOLUTION #01-31-91-06

WHEREAS, The Shoalwater Bay Indian Tribe is a Federally Recognized Tribe headquartered on the Shoalwater Bay Indian Reservation in the State of Washington; AND

WHEREAS, The Shoalwater Bay Tribal Council is the governing Body of the Shoalwater Bay Indian Tribe in accordance with their constitution and By-laws; AND

WHEREAS, The Shoalwater Bay Tribal Council has the power and responsibility to enact laws governing the conduct of all persons and defining offenses against The Shoalwater Bay Indian Tribe; AND

WHEREAS, The Shoalwater Bay Indian Tribe is in need of effective and harmonious laws to govern people within the jurisdiction of the Tribe; AND

WHEREAS, The Civil Infractions Code will provide procedures for enforcement of law and order to all people within the jurisdiction of The Shoalwater Bay Tribe; AND

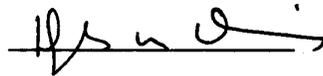
WHEREAS, a Public Hearing was held regarding the Civil Infractions Code, also known as Title 16, on Shoalwater Bay on January 23, 1991,

NOW THEREFORE BE IT RESOLVED, THAT the Shoalwater Bay Tribe hereby adopts the Attached Title 16 Civil Infraction Code effective as of the date of this resolution with the provision to amend and/or delete as needed.

CERTIFICATION

This resolution was passed at a Tribal Council meeting held Jan. 31, 1991, at which a quorum was present.

4 FOR 0 AGAINST and 0 ABSENCES


DOUGLAS M. DAVIS, CHAIRMAN

ATTEST;


LYNN CLARK, SECRETARY



SHOALWATER BAY INDIAN TRIBE

P.O. Box 130 • Tokeland, Washington 98590
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SHOALWATER BAY INDIAN TRIBE RESOLUTION # 06-24-93-38

WHEREAS, The Shoalwater Bay Indian Tribe is a federally recognized Tribe headquartered on the Shoalwater Bay Indian Reservation in the State of Washington; AND

WHEREAS, The Shoalwater Bay Tribal Council is the governing body of the Shoalwater Bay Indian Tribe in accordance with the Constitution and By-laws; AND

WHEREAS, The Shoalwater Bay Tribal Council has the power and responsibility to enact laws governing the conduct of all persons and defining criminal and civil offenses against the Shoalwater Bay Indian Tribe; AND

WHEREAS, The Shoalwater Bay Tribe is in need of effective and harmonious laws to govern people within the jurisdiction of the Tribe; AND

WHEREAS, The Shoalwater Bay Tribe adopted by resolution Title 16 Civil Infractions Code on January 31, 1991 together with the provision to amend as needed,

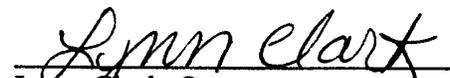
NOW THEREFORE BE IT RESOLVED, that the Civil Code Title 16, Section 16.04.04 - Public Disturbance Noises, is hereby amended and a new section titled Disorderly Conduct 16.04.15 is added. The amended and new section is attached with the new additions underlined.

*****CERTIFICATION*****

The above resolution was passed at a regular Tribal Council meeting held on the 24th day of June, 1993 at the Shoalwater Bay Tribal Center at which a quorum was present by a vote of 5 FOR, 0 AGAINST, and 0 ABSTAIN.


Herbert Whitish, Chairman

ATTEST:


Lynn Clark, Secretary