# JAMESTOWN S'KLALLAM TRIBE
# TRIBAL CODE
# TITLE 6 – FISHING CODE

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# Chapter 6.01
# General Provisions

**Sections:**
**Section 6.01.01 Title**
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## Section 6.01.01 Title
This title of the Tribal Code shall be known as the Jamestown S'Klallam Revised Fishing Code.

## Section 6.01.02 Declaration of Policy
Fishing has always been central to the cultural and economic life of the Jamestown S'Klallam Tribe ("Tribe") and its citizens ("Citizens"). By this Title, and the regulations adopted under it, the Tribe intends to exercise control over fishing and related activities to the fullest extent of Tribal jurisdiction in order to properly regulate, manage, and to insure their continued availability to the Tribe and its Citizens. Nothing in this Title shall be construed as a relinquishment, abrogation, or abridgment of any treaty right of the Tribe.

## Chapter 6.02
## Jurisdiction

**Sections:**
**6.02.01 Jurisdiction**

**Section 6.02.01 Jurisdiction**
Jurisdiction will extend over the following:

A. Territory - The provisions of this Title and all rules and regulations adopted under it shall apply to the full extent of the sovereign jurisdiction of the Tribe and shall apply in conformity with all agreements or other cooperative arrangements entered into by the Tribe which are designed to provide Tribal access to available fisheries and to provide effective fisheries management in the Point No Point Treaty Area; and

B. Persons - The provisions of this Title and all rules and regulations adopted under it shall apply to all persons who are eligible to fish under this Title, all persons who claim to be exercising fishing rights secured to the Tribe by the Treaty of Point No Point or other applicable treaties or agreements.

## Chapter 6.03
## Definitions

**Sections:**
**Section 6.03.01 Definitions**

**Section 6.03.01 Definitions**
The following definitions shall apply in this Title unless the context clearly requires otherwise:

A. Anadromous fish means any species of fish, which spawns in freshwater, migrates to marine waters for a portion of its life, and migrates back to freshwater to spawn.

B. Assistant means a person helping a Jamestown fisherman exercise his or her treaty rights as provided in this Title. A person is not an assistant who merely drives the fishers to or from a vessel or their usual and accustomed fishing place.

C. Biological personnel means trained biologists and technicians whom the Tribe and/or the Point No Point treaty Council employ and whose duties include advising on the management and/or enhancement of the tribal fishery or the Treaty Council fishery.

D. Buyer means a person authorized (including their employees) to purchase fish and re-sell fish and shellfish from one or more fishers. Buyer records sales on fish tickets and follows the requirements of *Section 6.08.01 Sale of Fish*. A Buyer may be a Fisher and the fish ticket can show the same person as Buyer and Fisher.

E. Ceremonial fishing means the taking of fish, shellfish, or other fishery resources for use in traditional tribal ceremonies and/or for religious purposes and is exclusive of fishing for subsistence and commercial purposes.

F. Commercial fishing is the taking of fish, shellfish or other fishery resources with the intent to sell them or profit economically from them. The phrase “profit economically” does not include sharing, trading or bartering among Citizens.

G. Controlled Substance is an illegal drug that can have a detrimental effect on a person’s health and welfare.

H. Depth of net means the total number of meshes between cork and lead line measured perpendicular to either cork or lead line.

I. Drift net (pole net) gear is a gillnet which is not staked, anchored, or weighted but drifts free.

J. Enforcement Marker means any official marker used to delineate boundaries or areas within the Tribe’s U&A related to fishing activities subject to this Title. It can include markers in the water and on shore.

K. Enrolled Person (or Enrolled Citizen) means any person who is an enrolled citizen of the Jamestown S'Klallam Indian Tribe.

L. Family Member means forbearers, children, grandchildren or siblings of a Citizen.

M. Fish and Game Enforcement Officer(s) or Enforcement Officer(s) means the person or persons charged with the responsibility of enforcing this Title and the regulations promulgated under it.

N. Fishing gear means all types of hooks, nets, spears, gaffs, lines, traps, appliances, and any other apparatus used to take fish.

O. Fish ticket means the officially designated form for recording fish and shellfish harvested during commercial fisheries including take home fish and shellfish for personal use, pursuant to this Title.

P. Food fish means any edible fishery resource, including salmon, steelhead, other anadromous fish, bottom fish,

shellfish, etc.

Q. Hook-and-Line (handline) refers to a single line, attached to which are no more than two single point hooks or a single treble point hook, including hand operated gaff or snag line which is used to impale fish by pursing and striking the individual fish with the gear.

R. Gill net gear is net of a single web construction bound at the top by a float line and at the bottom by a weight line.

S. Hand-dip net is a section of netting distended by a rigid frame, operated by a process commonly recognized as dipping. Such nets may be of any size.

T. Jamestown S'Klallam Tribe or Tribe means the present sovereign entity which is the political successor in interest to certain parties to the treaty of Point No Point and which is governed by a Tribal Council, elected by the qualified voters of the Tribe, and a General Council composed of all qualified voters of the Tribe.

U. Management Period means a time interval during which the majority of individuals of a fish species is accessible to capture and during which active management measures will be taken to meet conservation and allocation objectives. A Management Period is specific to a species and area. A single species may have more than one Management Period during the course of a year depending upon the life cycle of that species.

V. Minor means a person under eighteen years old.

W. Natural Resources Committee, or Committee, previously known as the Fish and Game Committee, is the committee established by the Tribal Council to advise the Fisheries Manager, Point No Point Treaty Council and Tribal Council on matters relating to the Tribe's natural resources..

X. Non-Enrolled Persons or Non-Citizen means any person who is not a Citizen of the Tribe.

Y. "Be present" means that when a Non-Citizen is assisting a Citizen the Citizen must be at the fishing location and within a reasonable distance of the person who is assisting. For example, a Citizen cannot be sitting in their car, or be at home, while the assistant is fishing to meet the requirements of this Title.

"Actively participating" means the Citizen must be an active participant in the fishing activity, along with the Non-Citizen assistant.

Z. Point No Point Treaty Council (Treaty Council) means the confederacy of tribes in the Point No Point Treaty area established for the purpose of unifying management of the Indian fisheries resources within that area.

AA. River mouth means a line which connects the outermost points of the river banks at mean low water tide.

AB. Shellfish means all species of invertebrate aquatic animals.

AC. Shellfish Manager means the Tribal staff person, that serves under the Fisheries Manager, with direct responsibility for the Shellfish Program.

AD. Shellfish Program means the Tribal shellfish program that is primarily responsible for the harvest management of shellfish resources, which includes clams, oysters, geoduck, crab, shrimp and other species.

AE. Spouse means a person lawfully married to a Citizen.

AF. Stretched measure means the distance between the inside of one knot to the outside of the opposite knot of one mesh. Measurements shall be taken when the mesh is stretched vertically while wet, by using a tension of ten pounds on any three consecutive meshes, then measuring the middle mesh of the three while under tension.

AG. Subsistence fishing is the taking of fish, shellfish, or other fishery resources for personal consumption by Citizens and their immediate families and for sharing, trading or bartering with other citizens. Subsistence fishing is

exclusive of fishing for commercial or ceremonial purposes.

AH. Test fishery means a fishery allowed on a limited basis for the purpose of acquiring technical or management information including, but not limited to, run strength, timing, species, composition, gear selectivity, exploitation rate, and enhancement possibilities.

AI. Treaty Council biologist is the member of the biological staff of the Point No Point Treaty Council who is in charge of the biological staff.

AJ. Tribal Council ("Council") means the duly elected governing body of the Tribe delegated by the Tribal Constitution to conduct and regulate the business of, and to act on behalf of, the Tribe.

AK. Tribal Court means the court of the Tribe or any court established or appointed by the Tribal Council to hear violations of this Title and regulations promulgated under it.

AL. Tribal fishers means any person, who is exercising any Tribal fishing right or who is assisting in the exercise of such rights, whether or not a Citizen of the Tribe, pursuant to authorization under this Title.

AM. Troll gear is a type of fixed hook-and-line gear.

AN. United States vs. State of Washington means the decision of the United States District Court reported in 384 F. Supp. 312 (W.D. Wash. 1974) and all applicable post-trial orders and proceedings.

AO. Shrimp pot is an enclosed trap made of netting or other mesh stretched over a rigid frame that incorporates entry tunnels.

Within Hood Canal only, the following provisions apply: 1) Walls of the pot shall be constructed of square mesh only that measures no less than ⅞ inch on the side of each mesh square, 2) There is no minimum mesh size for entry tunnels but tunnels are to be located on the sides of pots only, and 3) Total of tunnel widths not to exceed one-half the perimeter of the pot bottom.

AP. Personal use crab pot is an enclosed trap with one or more escape rings or ports, not less than 4⅛ inches inside diameter, located in the upper half of the pot. An escape ring or port is required only if the pot entrance does not allow free exit.

AQ. Commercial crab pot is an enclosed trap with at least two escape rings or ports located in the upper half of the trap. The inside diameter of the escape rings or ports shall not be less than 4⅛ inches inside diameter.

AR. Ring net is a type of dip net which may be lowered from a vessel by means of a rope.

AS. Beach seine is a type of net used to capture fish in nearshore areas by encircling them in a process commonly known as seining. Such nets shall have 4 inch minimum mesh at the wings, 32 inch minimum mesh at the bunt, and a 300 foot maximum line length. The use of power equipment for retrieval is not permitted.

AT. Seller means a person, who, for commercial purposes, sells, or smokes or otherwise processes and sells fish he has caught himself.

AU. Re-Seller means a person authorized to purchase and re-sell fish and shellfish that have previously been recorded on a fish ticket. The State of Washington regulates non-Indian Re-Sellers. The Tribe regulates its citizen Re-Sellers. Tribal Re-Sellers must be a Tribal citizen but may have non-citizen employees who work for them purchasing and retailing fish and shellfish. Re-Sellers may include Buyers.

## Chapter 6.04
## Who May Fish

**Sections:**

**Section 6.04.01 Eligible Fishers; Assistance by Non-Citizen Spouse and Family Members**
**Section 6.04.02 Assistance by Other Non-Citizens**
**Section 6.04.03 Fishing by Citizens on Non-Citizen Boat**
**Section 6.04.04 Fishing Vessel Assistants and Observers**

**Section 6.04.01 Eligible Fishers; Assistance by Non-Citizen Spouse and Family Members**
Eligible fishers under this Title are the following:

A. Citizens exercising Tribal treaty fishing rights, but only in accordance with this Title and applicable regulations;

B. The Non-Citizen Spouse of a Citizen assisting that Citizen in exercising treaty rights under this Title;

The requirements for such Spouse are as follows:

1. The Non-Citizen Spouse of a Citizen has no right to exercise treaty-fishing rights of the Tribe. The privilege of a Citizen to be assisted by their Non-Citizen Spouse belongs to the Citizen and is regulated by the Tribe in *Section 6.05.03 Tribal Spouse/Relative Card* of this Title.

2. A Non-Citizen Spouse may assist a Citizen so long as they are legally married to each other. The Citizen Spouse <u>must be present</u> with the Non-Citizen Spouse during any commercial, subsistence or ceremonial fishing activity (see *Section 6.03.01 Definitions*).

3. It is unlawful for a Non-Citizen Spouse to be part of a Fish ticket sale of fish or shellfish. Fish or shellfish taken by a Citizen while assisted by their Non-Citizen Spouse or family member (see subsection E., below) shall be recorded on the Fish ticket and sold by the Citizen as provided by this Title (see *Section 6.08 Sale of Fish*). No Citizen shall be assisted by their Non-Citizen Spouse if the Non-Citizen Spouse exercises the treaty rights of another tribe. Each Non-Citizen Spouse eligible to assist under this section shall choose, before May 1st of each year, whether they will fish under the authority of this Title or will exercise the treaty fishing rights of another tribe. Acceptance of the Jamestown S'Klallam Spouse Card, as provided for in *Section 6.05.03 Tribal Spouse/Relative Card*, shall be deemed a choice to fish under the authority of this Title and to be a waiver of any fishing rights through another tribe.

4. A Non-Citizen Spouse who is eligible to assist shall obtain the appropriate Tribal identification cards and permits before fishing (see *Section 6.05.02 Tribal Identification Card and Permits Required*).

C. Citizen minors, who may fish for commercial, ceremonial or subsistence purposes under the following circumstances:

1. A Citizen minor who is eligible to fish shall obtain the appropriate identification cards and permits before fishing (see *Section 6.05.02 Tribal Identification Card and Permits Required*).

2. It is the duty of the Citizen who is a parent or guardian of any Citizen minor, when such Citizen minor is not the Head of Household and who is exercising treaty-fishing rights pursuant to this sub-section, to ensure compliance with this subsection. No minor shall be issued a commercial fishing permit without the signed consent of such parent or guardian. Said consent shall clearly indicate the duty of the parent or guardian to ensure compliance with the subsection. Either the parent or guardian who permits a minor to fish under this Title, and the minor, shall be subject to prosecution for any violation of this Title.

3. Citizen minors who are eligible to fish shall be permitted to fish at all times permitted by applicable regulations, provided that they may fish no earlier than 3:00 PM on school days and no later than 10:00 PM on days immediately preceding a school day. This time restriction does not apply if the Citizen minor has graduated from high school, achieved a GED or otherwise completed their schooling. A citizen parent or

guardian may allow their school aged citizen minor to assist them during a treaty fishery up to 5 school days per school year provided the citizen minor secures permission from their education program for the

4. Citizen minors may fish for commercial purposes only if accompanied by a parent or guardian who is a Citizen, unless the minor has been declared to be Head of Household. Head of household means any Citizen minor who is solely or substantially responsible for providing their own care and maintenance or the care and maintenance of their own family. The determination of whether a Citizen minor is Head of Household and eligible to exercise commercial and ceremonial fishing rights without the supervision of a parent or guardian shall be made by the Natural Resources Committee. Once such has been made by the Committee, it may be appealed to the Tribal Council whose decision shall be final and not subject to judicial review.

5. The sale of fish or shellfish by Citizen minors is prohibited. Fish or shellfish taken by a Citizen minor shall only be sold by the accompanying Citizen parent or guardian as provided by this Title (see *6.08.01 Sale of Fish*). This restriction does not apply if the Citizen minor is considered a Head of Household.

D. Tribal and Treaty Council biological personnel, who may fish under the following circumstances:

1. Upon approval of the Fisheries Manager, or the appropriate manager with the Treaty Council, biological personnel of the Tribe and of the Treaty Council may take and possess fish and shellfish of all species for scientific, management, and/or enhancement purposes by any means or gear suitable for the purpose of the biological program.

2. Each person taking fish or shellfish under the authority of this subsection shall keep a cumulative record of all fish and shellfish taken by them and shall produce it for inspection upon request by the Fisheries Manager or Enforcement Officer or an authorized official of the Treaty Council. Fish or shellfish taken under the authority of this sub-section shall not be sold or used by biological personnel for personal gain, but shall remain the property of the Tribe or the Treaty Council.

3. Any attempt by biological personnel to circumvent this sub-section or to abuse the privilege granted herein shall be grounds for immediate dismissal from employment with the Tribe and/or the Treaty Council.

E. BY CERTAIN OTHER PERSONS ASSISTING - Citizens may be assisted by Non-Citizen relatives, as authorized by the provisions of United States vs. State of Washington, consisting of the Citizen's forbearers, children, grandchildren and siblings as follows:

1. The Non-Citizen relative of a Citizen has no right to exercise treaty-fishing rights of the Tribe. The privilege to be assisted by their Non-Citizen relative belongs to the Citizen and is regulated by the Tribe in *Section 6.05.03 Tribal Spouse/Relative Card* of this Title.

2. A Citizen may be assisted by their Non-Citizen forbearers, children, grandchildren or siblings. The Citizen must be present during any commercial, subsistence, or ceremonial fishing activity by any such persons (see *Section 6.03.01 Definitions*).

3. The sale of any fish or shellfish by Non-Citizen relatives is prohibited. Fish or shellfish taken by a Citizen assisted by their Non-Citizen relative shall be sold by the Citizen as provided in this Title (see *6.08.01 Sale of Fish*).

4. No Citizen shall be assisted by their Non-Citizen relative if the Non-Citizen relative exercises the treaty rights of another tribe. Each Non-Citizen relative eligible to assist under this section shall choose, before May 1st of each year, whether they will fish under the authority of this Title or will exercise the fishing rights of another tribe. Acceptance of the Jamestown S'Klallam Relative Card, as provided for in *Section 6.05.03 Tribal Spouse/Relative Card*, shall be deemed a choice to fish under the authority of this Title and to be a waiver of any right to exercise treaty fishing rights of another tribe.

5. A Non-Citizen relative who is eligible to assist shall obtain the appropriate Tribal identification cards and permits before assisting (see *Section 6.05.01 Tribal Identification Card and Permits Required*, and *Section 6.05.03 Tribal Spouse/Relative Card*).

6. Citizens are responsible for the conduct of their Non-Citizens relatives in fishery related activities. Violations of this Title or regulations promulgated under it shall subject the Citizen to a citation to the Tribal Court in the place of the Non-Citizen relative.

**Section 6.04.02 Assistance by Non-Citizens**
It shall be unlawful for a Citizen to allow any person to assist in, or be present on a fishing vessel engaged in, a treaty fishery unless such person is authorized to do so by *Section 6.04.01*, *Section 6.04.01 (A)* or *Section 6.04.03* of this Title.

**Section 6.04.03 Fishing by Citizens on Non-Citizen Boat**
It shall be lawful for Citizens to fish for finfish or shellfish aboard Non-Citizen boats for non-commercial purposes with a Non-Citizen likewise fishing, provided that the Non-Citizen is appropriately licensed by the State of Washington and is fishing according to current State laws and regulations governing sport fishing, and provided further that the Citizen shall be limited to the same species and catch bag limits, size restrictions, and gear restrictions as apply to the Non-Citizen.

**Section 6.04.04 Fishing Vessel Assistants and Observers**

A. It shall be lawful for a Citizen to be employed as the assistant on a fishing vessel legally owned, operated and/or licensed by a citizen or member of another tribe which possesses treaty fishing rights pursuant to United States vs. State of Washington, provided that said fishing vessel is lawfully being used for commercial fishing within the usual and accustomed fishing area of the owner/operator's tribe, and the owner/operator is aboard the vessel while it is so used.

B. Citizens may hire as fishing vessel assistants enrolled citizens or members of other tribes having adjudicated fishing rights in usual and accustomed areas (U&A) of another tribe which overlap with those of the Tribe provided that this is permitted by the fishing laws of those tribes and provided further that such assistants may only so assist within their tribe's adjudicated U&A. Should the assistant hired for commercial diving be a member or citizen of another tribe with overlapping U&A, a valid *hold harmless agreement* must be signed by that person and be kept on file with the Tribe. The Citizen who hires such assistants must ensure that no fish are sold on the assistant's fishing cards. The Citizen who hires such assistants for the commercial dive fishery must ensure that all fish are sold on the Citizen's buyer's card permit.

C. Citizens may allow vessel observers on board during a Treaty fishery subject to the permit requirements in *Section 6.05.01 Trial Identification Card and Permits Required*, and *Section 6.05.07 (B) Special Fishing Permits*, provided that the observer shall in no way assist the Citizen and may not handle any gear or fish. Misuse of an observer permit shall be grounds for suspension of a Citizen's fishing permit.

## Chapter 6.05
## Required Identification and Permits

**Sections:**

**Section 6.05.01 Tribal Identification Card and Permits Required**
**Section 6.05.02 Tribal Identification Cards**
**Section 6.05.03 Tribal Spouse/Relative Card**
**Section 6.05.04 Tribal Citizen Minor Card**
**Section 6.05.05 Biological Personnel Card**
**Section 6.05.06 Special Purpose Cards**
**Section 6.05.07 Commercial Fishery, Commercial Dive Fishery and Net Fishing Permits**
**Section 6.05.08 Special Fishing Permits**
**Section 6.05.09 Subsistance Catch Reporting Cards**

### Section 6.05.01 Tribal Identification Card and Permits Required

A. No person who is eligible to fish under *Section 6.04.01* or *Section 6.04.01 (B)(5)* of this Title shall exercise any treaty fishing right or engage in the sale of fish or shellfish unless they are in possession of a valid current identification and permits as provided in this section and applicable regulations. All identification cards and permit documents issued by the Tribe and/or the Treaty Council shall remain the property of the Tribe and/or Treaty Council and shall be returned to the Tribe and/or Treaty Council upon order of the Tribal Court or as otherwise provided in this Title or other applicable laws and regulations.

B. The Tribe, acting through the Committee, retains the right to suspend or revoke identification cards or fish permits issued to Non-Citizens who have or are violating this Title. A determination whether such a violation has occurred shall be made by the Committee in an open hearing. The person whose identification card is being considered for suspension or revocation shall have the opportunity to address the Committee prior to the decision being made, and the Committee, when rendering its decision, shall explain the reasons for that decision. Decisions of the Committee may be appealed to the Tribal Council whose decision shall be final not subject to judicial review.

C. Any person fishing under this Title shall produce for examination the applicable identification cards and fishing permits required by this section upon demand of any tribal, state or federal law enforcement official with authority to enforce Tribal treaty fishing rights. Failure to produce the required forms of identification shall be probable cause to believe that such person is not authorized to exercise tribal fishing rights.

D. The specific permits and identification, which are required for various fishing related activities, are as follows:

1. Commercial and Net Fishing: Persons fishing for commercial purposes or fishing with nets of any kind and persons engaged in the sale of fish or shellfish must have an embossed tribal identification card, tribal spouse/relative card or minor citizen card, as provided in *Section 6.05.01 Tribal Identification Card*, *Section 6.05.03 Tribal Spouse/Relative Card*, and *Section 6.05.04 Tribal Citizen Minor Card* and a commercial/net fishing permit as provided in *Section 6.05.06*.

2. Ceremonial Fishing: Citizens, their Non-Citizen spouses, and their Non-Citizen relatives may participate in ceremonial fisheries authorized by the Tribe or promulgated by the Treaty Council. The Citizen <u>must be present</u> during any ceremonial fishing activity when the spouse and relatives of the Citizen are participating (see *Section 6.03.01*). Eligible fishers fishing for ceremonial purposes shall have a tribal identification card, tribal spouse/relative card, or minor identification card provided in *Section 6.05.01 Tribal Identification Card*, *Section 6.05.03 Tribal Spouse/Relative card*, and *Section 6.05.04 Tribal Citizen Minor Card* respectively, <u>and</u> a permit or regulation as provided in *Section 6.05.07 Special Fishing Permits*. Each ceremonial fisher shall report their ceremonial catch to the Fisheries Manager as provided in the governing permit or regulation.

3. Subsistence and Sport Fishing: Citizens fishing for subsistence or sport purposes shall have in their possession a tribal identification card as provided in *Section 6.05.01 Tribal Identification Card*, and a subsistence catch reporting card as provided in *Section 6.05.08 Subsistence Catch Reporting Cards*.

4. Biological Personnel: biological personnel taking or possessing fish or shellfish for scientific, management, or enhancement purposes shall have the biological personnel card as provided in *Section 6.05.05 Biological Personnel Card*.

5. Sale of Tribal Fish: Any person authorized, under this Title, to sell fish or shellfish which are the property of the Tribe and/or the Treaty Council shall use the appropriate special purpose card as provided in *Section 6.05.06 Special Purpose Card*.

6. Observers: Any Citizen who has onboard any person who is not otherwise authorized by the provisions of this Title to be onboard, while engaged in a Treaty fishery, must have in their possession a valid Observer Permit as provided in *Section 6.05.08 (B) Special Fishing Permits*.

**Section 6.05.02 Tribal Identification Cards**
The Tribal Identification Card shall be an identification card issued or approved by the Treaty Council or Tribal Council for the purpose of identifying the holder as a Citizen and eligible to fish. The card shall show the BIA identification number of the cardholder, their photograph and tribal affiliation, and any other information, which the Tribal Council may require. The Tribal Identification Card may be either of two types:

A. An Embossed card which is intended for use in commercial fisheries by:

1. Adult citizens of the Tribe; and

2. Minors who have been granted Head of Household status;

B. A non-embossed card which is primarily intended for use by:

1. Citizens who do not fish commercially;

2. Non-citizen spouses and relatives assisting their citizen spouse or relative during commercial, subsistence and ceremonial fisheries; and

3. Minors fishing for commercial, subsistence or ceremonial purposes, who have been granted Head of Household status.

**Section 6.05.03 Tribal Spouse/Relative Card**
The Tribal Spouse/Relative Card shall be a non-embossed identification card approved and issued by the Tribal Council or the Treaty Council for the purpose of identifying the holder as the Non-Citizen spouse, or Non-Citizen relative of a Citizen, eligible to assist said Citizen in the exercise of treaty commercial, subsistence and ceremonial fishing rights. To apply for a Tribal Spouse/Relative Card, a relative of a Citizen meeting the conditions set out in *Section 6.04.01 (5) Eligible Fishers* shall produce a valid *Certificate of Indian Blood* available through the Tribe's Enrollment Office. The card shall bear a photograph of the holder and shall show the Citizen's name, the BIA identification number of the Citizen, and any other information the Tribal Council or the Treaty Council deems necessary.

**Section 6.05.04 Tribal Citizen Minor Card**
The Tribal Citizen Minor Card, for minors who are Citizens of the Tribe, shall be an unembossed card issued for the purpose of identifying the holder as a Citizen who is a minor and eligible to fish. The card shall show the BIA identification number of the holder, their photograph and tribal affiliation, and any other information, which the Tribal Council or the Treaty Council may require.

**Section 6.05.05 Biological Personnel Card**
The Biological Personnel Card shall be an identification card issued by the Tribal Council or Treaty Council to those biological personnel who are authorized to take and possess fish and shellfish under *Section 6.04.01 (D) Eligible Fishers*. The identification card shall bear the photograph and title of the person so authorized.

**Section 6.05.06 Special Purpose Cards**
The following special purpose cards may be issued under the authority of this Title:

A. Tribal Fishery Card: The Tribal Fishery Card shall be an embossed card issued or approved by the Tribal Council or the Treaty Council for use during the sale of fish or shellfish taken in a fishery specifically conducted on behalf of or for the benefit of the Tribe. No such fishery shall occur except as specifically authorized by appropriate regulations issued pursuant to this Title. The Fisheries Manager shall be responsible for ensuring that the Tribal Fishery Card is used properly.

B. Test Fishery Card: The Test Fishery Card shall be an embossed card issued or approved by the Tribal Council or the Treaty Council for use during the sale of fish or shellfish taken in test fisheries conducted pursuant to this Title. The Fisheries Manager shall be responsible for ensuring that the Test Fishery Card is used properly.

C. Hatchery Sale Card: The Hatchery Sale Card shall be an embossed card issued or approved by the Tribal Council or the Treaty Council for use during the sale of surplus or spawned fish taken at Tribal Enhancement Facilities. The Fisheries Manager shall be responsible for ensuring that the Hatchery Sale Card is used properly.

D. Enforcement Confiscation Card: The Enforcement Confiscation Card shall be a special embossed card issued or approved by the Tribal Council or the Treaty Council for use during the sale of fish and shellfish seized or confiscated by Enforcement Officers acting under authority of this Title. Enforcement Officers, in conjunction with the Fisheries Manager, shall be responsible for ensuring the proper use of the Enforcement Confiscation Card.

**Section 6.05.07 Commercial Fishery, Commercial Dive Fishery and Net Fishing Permits**
The following permits may be issued for commercial fishing, including commercial dive fishing and commercial net fishing:

A. All fishers who fish commercially, whether surface fishing or dive fishing, or who fish with a net of any kind for any purpose shall obtain an annual Tribal Commercial Fishing Permit (sticker). All such permits shall be non-transferable and shall expire on April 1st of each year.

B. All eligible fishers of the Tribe who wish to commercially dive to harvest shellfish using compressed gas diving equipment must obtain a buyers card permit in addition to a treaty Indian fishing identification card permit. All commercial dive fishers and their assistants/tenders must successfully complete certain dive training and safety courses. All commercial dive training and safety courses and instructors must be approved by the Tribe's Diving Safety Officer. All eligible fishers and their assistants/tenders, at a minimum, must successfully complete the following diving safety and training requirements before entering the commercial dive fishery:

1. All applicants must provide certification they have received training for Basic Open Water SCUBA diving from a nationally recognized SCUBA training agency and complete a SCUBA check out dive with the Diving Safety Officer. The check-out dive may be waived if the applicant received training from an instructor approved of, ahead of time, in writing, by the Diving Safety Officer..

2. All applicants must provide documentation of having successfully completed a STRESS RESCUE course from an instructor approved of, ahead of time, in writing, by the Diving Safety Officer

3. All applicants must provide certification that they have successfully completed an Orientation to Surface Supplied Air Diving course from an approved certifying agency and complete two (2) Surface Supplied Air (SSA) check-out dives with the Diving Safety Officer.

4. All applicants must successfully complete a DIVER ASSIST training each year provided by the Tribe.

5. All applicants must have worked as a tender on a commercial vessel for a minimum of one (1) month; all dives tended must be recorded in a log book and presented to the Diving Safety Officer for inspection and approval. The Diving Safety Officer may waive the tending requirement after reviewing an applicant's tending experience.

6. All applicants must provide valid certification that they have successfully completed training for Cardio-Pulmonary Resuscitation (CPR) and First Aid from an approved certifying agency. A refresher course is required every year for CPR and every three (3) years for First Aid.

7. All applicants must provide documentation of having successfully completed an Oxygen Administration First Aid course for diving related injuries as approved by the Diving Safety Officer. A refresher course is required every two (2) years.

8. All applicants must provide annual documentation of receiving a physical examination, from approved physicians at the Jamestown Family Health Clinic, that follows the specific American Academy of Underwater Sciences (AAUS) guidelines for commercial divers.

9. All applicants must pass a urinalysis screen for illegal substances provided by the Jamestown Tribe.

10. All boats to be used by the applicant in a covered fishery must pass required safety and equipment inspections every six (6) months provided by inspectors approved of by the Diving Safety Officer.

C. In an effort to maintain safe diving operations within the fleet, no more than two (2) divers may operate off a boat on any given day. Each diver must have a separate tender if diving at the same time; one (1) tender may not tend for two (2) divers simultaneously.

D. No commercial permits shall be issued for a given year unless and until the applicant Tribal fisher has paid all Tribal fish taxes due and all Tribal fines for fishing violations levied during the previous seasons.

E. All Commercial Buyer Cards shall be non-transferable and shall expire on December 31st of each year. All Treaty Indian Fishing Identification Card stickers shall be non-transferable and shall expire on March 31st of each year.

F. The Tribal Council shall have the power to set fees for commercial fishing permits by appropriate resolution.

**Section 6.05.08 Special Fishing Permits**

There are two types of special permits that may be issued under this Title: Ceremonial Fishing Permits and Observer Permits. Only the Ceremonial Fishing Permit allows fishing. The requirements for them are as follows:

A. Ceremonial Fishing Permits: Citizens and their Non-Citizen spouses and relatives may harvest fish or shellfish for ceremonial purposes if they first obtain a Ceremonial Fishing Permit issued by the Tribal Fisheries Manager or Shellfish Manager for that purpose. Ceremonial fishing shall be done in accordance with the conditions stated on the permit.

B. Observer Permits: Citizens of the Tribe may obtain an Observer Permit from the Tribal Fisheries Manager to allow a Non-Citizen aboard their vessel during a treaty fishery. It is unlawful for a Non-Citizen observer to participate in a Tribal fishery. The conduct of a Non-Citizen observer is the responsibility of the Citizen seeking the Observer Permit. The permit shall be issued to the Citizen for a maximum of 48 hours and shall specify the Citizen's name, observer's name, date and time of issue, date and time of expiration, and must be signed by the Fisheries Manager or the Tribal Chairman.

**Section 6.05.09 Subsistence Catch Reporting Cards**

A. All fishers who engage in subsistence fishing and shellfishing shall obtain and have on their person while harvesting, a semi-annual Tribal Subsistence Catch Reporting Card, issued by the Tribe's Natural Resources Department. All such cards are the responsibility of the person they are issued to. These cards are non-transferable. Lost cards must immediately be reported by the fisher along with the catch data recorded on them. Each catch reporting card will cover one or the other of the following 6 month terms:

1. April 1 through September 30. Cards must be returned no later than October 15; or

2. October 1 through March 31. Cards must be returned no later than April 15.

Should a fisher not report a lost card or otherwise not return a card issued to them by the due date for a given 6 month term, no card will be issued to that fisher for the subsequent 6 month term.

B. Each time a fisher catches and retains fish or shellfish during subsistence fishing activities, they shall immediately record the catch on their Subsistence Catch Record Card. All subsistence fish or shellfish in the fisher's possession must be accounted for on the card. Subsistence harvest during a commercial fishery must be recorded on a commercial fish ticket as "take home catch."

C. Each fisher shall return their Subsistence Catch Reporting Card to the Tribe's Natural Resources Department no later than April 15 (6 month term ending March 31) or October 15 (6 month term ending September 30) of each year. Failure to turn in the card shall result in the fisher's forfeiture of subsistence harvest privileges for the subsequent 6 month term. The fisher shall send in the card sooner if requested by the Fisheries Manager.

D. Non-Citizen spouses and relatives will not be issued Subsistence Catch Reporting Cards. Any subsistence fish or shellfish caught by a Non-Citizen spouse or relative shall be reported on the accompanying Citizen's Subsistence Catch Reporting Card.

## Chapter 6.06
## Boat and Gear

**Sections:**
**Section 6.06.01 Registration and Identification of Fishing Boats and Gear**
**Section 6.06.02 Use of Tribally Registered Boat or Gear by Unauthorized Persons**
**Section 6.06.03 Fishing Vessel Ownership**

### Section 6.06.01 Registration and Identification of Fishing Boats and Gear

A. It shall be unlawful to exercise treaty fishing rights with any boat or gear which has not been registered and marked in accordance with the procedures established by this Title or other procedures approved by the Treaty Council or the Tribal Council.

B. All boats and gear shall be registered annually with the Tribe or the Treaty Council. All registrations shall expire June 30th of each year.

C. Except as provided in *Section 6.06.03 Fishing Vessel Ownership*, and *Section 6.06.04 Other Prohibited Activities*, no boat shall be registered for use in exercising treaty-fishing rights unless the boat is owned by the Tribe or a Citizen. Adequate documentation of ownership shall consist of one or more of the following:

1. Coast Guard documentation or registration in the name of the Tribe or Citizen.

2. A Bill of Sale conveying clear title to the boat to the Tribe, or a Citizen. The Bill of Sale shall show the name and address of the purchaser and the seller, the purchase price, the make, model, type, name of the boat (if applicable), length of the boat, a description of any included gear and equipment, state registration number, if any, and the date of the sale.

3. A purchase contract as approved under *Section 6.06.03 Fishing Vessel Ownership* of this Title.

4. Common knowledge within the Jamestown Tribal Community that the boat is wholly owned by the Tribe or a Citizen.

D. The first time a particular boat is registered, the owner of the boat shall be issued an approved permanent vessel registration number. It shall be the vessel owner's responsibility to permanently apply this number to the boat near the bow on both the port and starboard sides. The first time, and each time thereafter that the boat is registered, the boat owner shall be issued an approved annual registration sticker, which they shall affix next to the vessel registration number. The annual registration sticker shall expire on June 30th of each year.

E. It shall be unlawful to transfer vessel registration numbers from one boat to another, or to affix the annual registration sticker next to a vessel registration number of any boat other than the one for which the sticker was issued.

F. Vessel registration numbers and annual registration stickers are the property of the Tribe. Should transfer of ownership of a boat with Tribal registration occur, the registered owner of the boat shall notify the Tribe in writing. If the transfer of ownership is to a Non-Citizen of the Tribe, the Citizen shall be responsible for the removal of all Tribal registration numbers and registration stickers.

G. All nets shall be conspicuously marked with the Tribal identification card number of the fisherman operating the net and shall be marked in such a manner that the fishers and tribal affiliation can be identified without removing the net from the water. All unmarked nets, which are unattended, and any fish found in them may be seized by the Enforcement Officers as provided in *Section 6.10.06 Seizure of Fish and/or Gear*.

H. All unattended pots, traps, nets and long lines that are deployed in the water shall have buoys attached. All buoys shall be conspicuously marked with the Tribal identification card number of the fisherman operating the gear and shall be marked in such a way that the fisherman and tribal affiliation can be identified without removing the gear

from the water. All buoys shall be constructed of durable material excluding plastic or metal bottles and other containers. The buoy line shall be weighted to keep it from floating.

**Section 6.06.02 Use of Tribally Registered Boat or Gear by Unauthorized Persons**
It shall be unlawful for the legal owner of a tribally registered boat to allow that boat to be used in any Treaty fishery by any other person unless that person has written authorization from the Tribal Fisheries Manager or Shellfish Manager. It shall be unlawful for the owner of pots, traps, nets and long lines deployed in the water to allow that gear to be fished by another Citizen unless that Citizen has written authorization from the Tribal Fisheries Manager, Shellfish Manager or a Tribal Enforcement Officer.

**Section 6.06.03 Fishing Vessel Ownership**

A. Except as provided in *Section 6.04.03 Fishing Vessel Assistants and Observers*, no Tribal fisher may exercise treaty fishing rights on any vessel which is not either wholly owned by the fisher, a member of their immediate family, another Citizen, or the Treaty Council, or is in the fishers custody pursuant to an approved, legally binding purchase contract. Each vessel purchase contract must be approved by the Tribe before it becomes effective and the vessel in question can be used in exercising treaty fishing rights. The procedure for obtaining approval of the purchase contract shall be as follows:

1. Application for approval of the contract shall be made to the Fisheries Manager. The application shall be made by providing a copy of the purchase contract and any pertinent documents to the Fisheries Manager.

2. The Fisheries Manager shall examine the contract and the submitted documents in order to determine whether the contract is legally binding on both buyer and seller; whether it has a reasonable likelihood of success, thus insuring that the vessel will not be returned to the seller; and whether it otherwise meets the requirements of this Title. If necessary, the Fisheries Manager shall consult with the Tribal attorney or the Treaty Council attorney and the Committee in making this termination.

3. If the Fisheries Manager determines that to the best of their knowledge the contract appears to be enforceable and meets the requirements of this Title, they shall approve the contract and authorize the vessel to be registered.

4. Within two weeks after receiving the application, the Fisheries Manager shall notify the fisher whether or not the purchase contract has been approved and if it was not approved, the reasons why.

5. Any fisher whose contract has been disapproved may appeal the decision to the Committee. If disapproved by the Committee the decision may be appealed to the Tribal Council, whose decision shall be final.

B. No purchase contract shall be approved if payment on the contract is in the form of a percentage of the catch.

C. Lease and lease-purchase agreements are prohibited.

# Chapter 6.07
# Fisheries Administration

**Sections:**

**Section 6.07.01 Fisheries Manager**
**Section 6.07.02 Dive Safety Officer**
**Section 6.07.03 Natural Resources Committee By-Laws**
**Section 6.07.04 Adoption of Annual and Seasonal Regulations; Notification Requirements**
**Section 6.07.05 Emergency Regulations; Notification Requirements**
**Section 6.07.06 Fishing Areas/Catch Reporting Districts**
**Section 6.07.07 Power to Delegate Management of In-Common Fisheries to the Treaty Council**
**Section 6.07.08 Test Fishing**
**Section 6.07.09 Limited Entry for Commercial Fisheries**

**Section 6.07.01 Fisheries Manager**

A. The CEO of the Tribe, with the approval of the Tribal Council, shall appoint a Fisheries Manager who shall be responsible for:

1. Managing the Jamestown S'Klallam Tribal fisheries resources;

2. Coordinating the management of the Tribal fisheries resources with the Point No Point Treaty Council biological staff;

3. Promulgating fishing regulations;

4. Managing the Jamestown S'Klallam Tribal fisheries;

5. Directing the fisheries enhancement effort of the Tribe; and

6. Carrying out any other duties delegated to the Fisheries Manager by this Title or by the Tribal Council.

B. The Fisheries Manager shall prepare or direct the preparation of general fishing regulations covering the management periods of all target species. The Fisheries Manager shall consult with the Committee, Tribal Fishers, Tribal and Treaty Council Biologists, and shall endeavor to consult with appropriate state and federal agencies in order to obtain information necessary for the management of target fin and shellfish species and for the promulgation of fishing regulations. The Fisheries Manager shall be responsible for seeing that the regulations are filed according to the procedures established by the applicable orders of the U.S. District Court in United States vs. State of Washington and/or by any other applicable agreements with other management agencies.

**Section 6.07.02 Dive Safety Officer**

The CEO of the Tribe, or their designee, is authorized to appoint a Dive Safety Officer for the Tribe. The Dive Safety Officer shall have dive experience and a general understanding of Commercial Diving Safety issues and shall be responsible for:

A. Informing all Tribal Commercial Divers, assistants and Dive Tenders of all applicable dive safety laws and regulations.

B. Coordinating appropriate dive safety classes for Tribal Commercial Divers, assistants and Dive Tenders.

C. Reviewing applications from Tribal Commercial Diver, assistants and Dive Tender, in reference to course requirements, as specified in the Tribal Commercial Dive Fishing Permit sections of this Title, *Section 6.05.06 Commercial and Net Fishing Permits (1), and (2)*.

**Section 6.07.03 Natural Resources Committee By-Laws**

The Tribal Council shall appoint a Natural Resources Committee ("Committee") which shall consist of nine (9) persons who are familiar with natural resource issues and treaty hunting, fishing and gathering rights, including the laws, regulations and practices within the Tribe's jurisdiction. The membership of the Committee shall be as follows:

A. The Committee shall have seven (7) voting member who are Citizens, no more than three (3) of whom shall be commercial fishers. For purposes of this section, a commercial fisher is a person who earns at least 50% of their income from fishing.

B. The Fisheries Manager shall be a permanent member of the Committee and shall not vote.

C. The CEO shall be a permanent non-voting member of the Committee.

D. Committee members shall be appointed by the Tribal Council. Their terms shall be for three years, expiring on January 31, and will be staggered so that no more than three positions are subject to appointment in any one year.

E. If a Committee member resigns or a position otherwise becomes vacant before the term of that position expires, the Tribal Council shall appointment someone to serve the remainder of the unexpired term who is qualified to serve in that position.

F. The Committee is authorized to elect a Chair and Vice-Chair from its voting membership by simple majority vote. In the event of a tie in the election of the Committee Chair or Vice-Chair, the Tribal Council shall select a Chair or Vice-Chair. Elections shall be held, at any reasonable time, at the request of a Committee member.

G. For the purpose of conducting business, a quorum of the Committee shall be five members, no less than four of whom shall be voting member. Committee decisions shall be by simple majority vote of the voting members present. Whenever two or more of the Committee members disagree with the decisions of the Committee, they may file their dissent and their reasons therefore with the Tribal Council.

H. The Committee Chair shall vote on Committee business only in elections or in the event of a tie vote.

I. The Fisheries Manager shall be responsible for notifying Committee members of Committee meetings. No Committee meetings shall be held unless the Fisheries Manager has made a good faith effort to notify each Committee member of the meeting. The Fisheries Manager shall also call meetings at the request of a Tribal Council member or Committee member, or at any time required to implement this Title or as deemed necessary by the Fisheries Manager.

J. The Committee shall act in an advisory capacity to the Fisheries Manager, the Tribal Council and/or the Treaty Council, except as noted in *Section 9.03.05* of *Title 9 – Hunting Code* of the Tribal Code, and shall carry out other fishing, hunting and gathering related duties assigned to it by the Tribal Council or this Title. Issues that may be addressed by the Committee include:

1. Recommending the times and places, when and where the taking and possession of any or all of the various classes of fish and shellfish, under the jurisdiction of this Title, and all the forms of wildlife under the jurisdiction of *Title 9 – Hunting Code* of the Tribal Code, and flora, under the jurisdiction of any *Tribal Gathering Code*, as may be adopted, is lawful, prohibited, or otherwise limited;

2. Recommending and defining the types, size and other characteristics of fishing, hunting, and gathering gear not already herein defined and the time, place and manner in which it will be lawful to use or possess any of the aforementioned gear;

3. Recommending additional requirements and conditions for the issuance of tribal fishing, hunting, and gathering permits beyond those set in this Title, or other titles of the Tribal Code, as well as any further restrictions on the use of such permits, and recommending procedures for the application for and issuance of such permits. In making these recommendations, the Committee shall give preference to the use of fish, shellfish, wildlife, and flora for subsistence, religious, and ceremonial purposes.

K. Regulating any other aspects of Tribal fishing, hunting, and gathering activities, which the Tribe refers to the Committee.

L. The Committee shall regularly report to the Tribal Council its decisions, actions and recommendations.

M. Except as otherwise provided in this Title, or by the Tribal Council, no recommendation, action, or decision of the Committee shall become effective unless and until it has been reviewed and approved by the Tribal Council.

N. No person who has been convicted of a violation of the Tribal Code or a regulation promulgated under it which the Tribal Court has determined to be a conservation threat to the fish, shellfish, wildlife, or flora resources shall be allowed to serve on the Committee or shall be employed by the Natural Resources Department for a period of two years after their conviction. A person so convicted during their term of office on the Committee or employment with the Natural Resources Department may be removed from said office or employment upon conviction. Such removal shall be at the discretion of the Tribal Council in accordance with guidelines and procedures established by the Council.

O. The Committee may, at their discretion, delegate any of their duties and authorities to a Tribal staff person according to all other policies and procedures set forth by this Title or regulations.

**Section 6.07.04 Adoption of Annual and Seasonal Regulations; Notification Requirements**

A. The Fisheries Manager shall prepare or direct the preparation of proposed annual and seasonal regulations for each species of fish and shellfish to be managed by the Tribe for its fishers. These proposed regulations shall cover all aspects of Tribal fishing consistent with this Title and the requirements of United States vs. State of Washington. In preparing the proposed regulations, the Fisheries Manager shall consider all recommendations made to them by the Tribal Council, the Committee, Tribal and Treaty Council biologists, and other interested parties.

B. When required, the Fisheries Manager shall provide the Tribal Council with copies of all proposed annual and seasonal regulations. The Tribal Council may review the regulations for consistency with this Title and with Tribal goals and objectives regarding management of its fisheries. The Tribal Council shall retain, at all times, the right to reject or modify any or all regulations proposed by the Fisheries Manager. Each regulation proposed by the Fisheries Manager, and not rejected or modified by the Tribal Council, shall be considered as approved and shall become effective and enforceable according to the terms specified in the regulation or until the regulation is rejected or modified by the Tribal Council. Copies of approved regulations shall be provided to the required parties in United States vs. State of Washington and to appropriate outside agencies.

C. The proposed regulations regarding anadromous species shall be communicated to the parties in United States vs. State of Washington according to the requirements and time schedules specified in the applicable court orders entered in United States vs. State of Washington.

D. All proposed and adopted regulations shall be prominently posted at the Tribal Fisheries office and shall be available to Tribal citizens upon request.

**Section 6.07.05 Emergency Regulations; Notification Requirements**

A. The Fisheries Manager shall have the power to make emergency changes in the annual regulations when deemed necessary to insure proper management and conservation of the fisheries resources. The power to make emergency changes in annual regulations includes the power to close a Tribal fishery when, in their judgment, the closure is necessary to meet conservation and/or allocation needs. Annual regulations shall not be changed on an emergency basis until the Fisheries Manager has made a good faith effort to consult with the Committee and a Tribal biologist or a Treaty Council biologist about the changes.

B. Emergency regulations shall be effective and enforceable when they are issued or according to their terms and shall remain in effect and shall be enforceable unless specifically modified or rescinded by the Tribal Council. No penalty shall be imposed for violations of an emergency regulation unless twenty-four (24) hours have passed since it was issued, or unless there has been personal service of the regulation upon the fisher, whichever occurs first.

C. All emergency regulations shall be posted at the Tribal Fisheries office.

**Section 6.07.06 Fishing Areas/Catch Reporting Districts**
Annual and emergency fishing regulations may refer to marine fishing areas by special marine area code numbers generated by the State of Washington. The waters represented by these numbers shall be as described in the most current State of Washington regulations establishing Puget Sound commercial management and catch reporting areas for salmon and marine fish/shellfish. Freshwater areas, in addition to marine area code numbers, shall be referred to, in the regulations, by stream, river or lake name.

**Section 6.07.07 Power to Delegate Management of In-Common Fisheries to the Treaty Council**

A. The Tribal Council shall have the power to delegate to the Treaty Council, by resolution; the authority to manage fishing areas the Tribe has in-common with other members of the Treaty Council and the authority to negotiate in-common regulations with tribes which are not members of the Treaty Council.

B. Regulations proposed by the Treaty Council on behalf of the Tribe as provided in paragraph A., above, shall be subject to the same procedural and review provisions as the regulations proposed and promulgated by the Fisheries Manager under *Sections 6.05.01 (1) and (2)* of this Title, including the right of the Tribal Council to reject or modify regulations proposed by the Treaty Council.

**Section 6.07.08 Test Fishing**

A. The Fisheries Manager shall have the power to authorize a test fishery following a determination by the Tribal or Treaty Council biologists that such a fishery is necessary. The Fisheries Manager shall determine the type and amount of gear to be used and the time period and fishing area for the test fishery. There shall be no test fishery other than as directed by the Fisheries Manager and/or the Treaty Council. Other affected management entities shall be given a reasonable notice of proposed test fisheries.

B In order to participate in a test fishery, a fisher must meet the following requirements:

1. The fisher must be a Citizen or a citizen/member of a Treaty Council member tribe who is eligible to participate in said tribe's fishery, or a biologist employed by the Tribe or Treaty Council.

2. The fisher shall be experienced in the use of the selected test gear type in the selected test fishing area.

3. The fisher must agree to record and provide to the Fisheries Manager all the information regarding the test fishery required by the Fisheries Manager.

4. In the event that there are more eligible fishers than are necessary for a specific test fishery, the participants shall be chosen by a fair drawing, by lot, conducted by the Fisheries Manager. Participation in the test fishery shall be according to the order established in the drawing for that test fishery. If the test fishery continues long enough for all of the interested fishers to participate in it at least once, then the participation of fishers shall continue rotating through the order established in the drawing. A fisher who becomes interested and eligible to participate in an on-going test fishery after the drawing has been held shall be assigned a place at the end of the rotation list established in the drawing. "At the end of the rotation list" shall mean after the last person on the participation schedule, as such schedule stands on the day the new fisher begins participation in the test fishery.

5. When a selected test fisher withdraws or is disqualified from participating in the test fishery, the next fisher on the list shall be designated as their replacement. Test fishers shall not exchange their positions on the list after the test fishery begins, but may do so beforehand.

6. In the event that a test fishery continues for an extended period of time with the result that some fishers have repeatedly participated in it, fishers who are ineligible to participate, because their gear or experience is inadequate, may indicate to the Fisheries Manager their desire to be an assistant in the test fishery. The Fisheries Manager shall prepare a list of those fishers interested in being assistants in the test fishery. The Fisheries Manager may, at their discretion, require each test fisher to select one person from the list to be their assistant in the test fishery. The Fisheries Manager may require that a test fisher select a new assistant

each time the test fisher participates again in that fishery.

7. The test fisher must agree to participate in the test fishery for the amount of compensation provided for in subsection D. of this section, below.

C. General Rules for Test Fisheries:

1. Test fishers shall report all information requested by the Fisheries Manager to said manager or to the Treaty Council office on a daily basis. Failure to report on a daily basis constitutes withdrawal from the test fishery program. Such a withdrawal shall date from the time the test fisher made their last report of information.

2. Only the Tribe or the Treaty Council may conduct a test fishery. Fish or shellfish taken in a test fishery are the property of the Tribe or Treaty Council, whichever conducts the test fishery. All proceeds from the sale of fish or shellfish caught in test fisheries shall be submitted to the Tribe or Treaty Council, as appropriate.

3. Fish and shellfish taken in test fisheries shall be sold only on a Tribal test fishery card or a Treaty Council test fishery card and not on the individual test fisher's tribal identification card.

4. Test fishers shall strictly obey the gear, time and area restrictions of the test fishing program.

5. Failure to comply with the reporting requirements or the gear, time and area restrictions of the fishing program shall constitute withdrawal from the program, and shall be a serious violation of this Title.

D. Test fishers shall be compensated for their work based upon a percentage of the gross sale price of the fish caught in the test fishery. The Fisheries Manager shall determine the appropriate compensation as follows:

1. In those cases where the test fisher provides the vessel, gear, personnel, and all operating expenses necessary for the test fishery, the fisher shall receive 75% of the gross sale price of the fish and shellfish caught by their vessel and/or gear.

2. In those cases where the test fisher has been required to take on an assistant as provided in subsection B. of this section, above, the test fisher will receive 50% and the assistant will receive 25% of the gross sale price of the fish and shellfish caught by the test fisher's vessel and/or gear.

3. The Tribal fish tax shall not be applied to the sale of fish and shellfish caught in test fisheries.

4. No test fisher shall be compensated for their work unless they have complied with all the reporting requirements of the test fishery.

**Section 6.07.09 Limited Entry for Commercial Fisheries**
The Tribal Council retains the power to establish a system of limited entry for commercial fisheries.

## Chapter 6.08
## Sale of Fish and Shellfish

**Sections:**

**Section 6.08.01 Fish Tickets and the Sale of Fish and Shellfish**
**Section 6.08.02 Completion of Fish Tickets**
**Section 6.08.03 Tax on Fish and Shellfish Sold Commercially**
**Section 6.08.04 Tribal Citizen Fish and Shellfish Buyers/Sellers**

### Section 6.08.01 Fish Tickets and the Sale of Fish and Shellfish

A. All fish and shellfish caught during commercial fisheries shall be recorded on fish tickets provided by the Tribe.

B. Except as provided elsewhere in this Title, it shall be unlawful for any fisher to sell or offer for sale on a fish ticket, fish or shellfish caught by any person other than themselves.

C. It shall be unlawful to sell fish or shellfish to a buyer to whom the sale of fish by Tribal citizens has been prohibited as provided in *Section 6.08.03 (D) Tax on Fish Sold Commercially*.

D. It shall be unlawful to sell, or offer for sale on a fish ticket, any fish or shellfish unless taken with lawful commercial gear, in an area open to commercial fishing with the gear, and the fisher has in their possession, at the time of sale, a valid Tribal identification card and commercial fishing permit issued under this Title.

E. It shall be unlawful to sell fish caught with any vessel that has not been registered pursuant to *Section 6.06 Boats and Gear*.

F. It shall be lawful for Citizens who qualify as a Re-Sellers, and their employees, to purchase and re-sell fish and shellfish which have previously been recorded on a fish ticket as provided in this section.

### Section 6.08.02 Completion of Fish Tickets

A. All fish and shellfish caught during commercial fisheries shall be recorded on fish tickets. Each fisher shall present their embossed Tribal identification card or other card as provided in this Title to the buyer each time they sell fish or shellfish. The embossed information on the card shall be recorded onto the fish ticket. The fisher selling the fish or shellfish shall require the buyer to insure the embossed identification card is used to imprint the required information for each sale.

B. It is the responsibility of each fisher to verify the accuracy of each fish ticket documenting the sale of fish and shellfish that they have harvested. Each fish ticket must be signed by the fisher who caught the fish and shellfish being recorded on that ticket as affirmation that the information on the ticket is correct.

C. Fish tickets shall constitute prima facie evidence that the events, as recorded on the tickets, actually occurred. Fish tickets which indicate a violation of this Title or regulations promulgated under it shall in themselves constitute probable cause to believe that a violation has occurred, and shall be admissible evidence that a violation has occurred.

D. It is unlawful to record false information on fish tickets.

E. Fish and shellfish buyers are required to return completed fish tickets to the Tribal Fisheries Office no later than 6 days following commercial harvest of fish or shellfish.

### Section 6.08.03 Tax on Fish and Shellfish Sold Commercially

A. There shall be a tax, called the Tribal Fish Tax, imposed on each sale of fish or shellfish by anyone exercising commercial fishing rights under *Section 6.05.02 (D) Tribal Identification Card and Permits* of this Title. The Tribal Fish Tax shall not be applied to fish or shellfish taken for ceremonial, subsistence, sport, biological or Tribal purposes, as set out in *Sections 6.05.02 (E-I)* and *Section 6.05.06 (A) and (D) Special Purpose Cards*. The tax shall be based up, and expressed as a percentage of, the gross sale price of fish or shellfish, except for Geoduck clams, per *Section 6.08.03 (F) Tax on Fish Sold Commercially*.

The tax rate shall be established by resolution of the Tribal Council and become a regulation under this Title, when so adopted. The Tribal Council may change the amount of tax each year before the beginning of the fishing season. The funds raised by the Tribal Fish Tax will be kept in a separate account of the Tribe's general fund. Each year the Fisheries Manager and Tribe's Chief Financial Officer will prepare a report on the amount of fish tax income to the Tribe for presentation to the Committee. The Committee may make recommendations to the Tribal Council regarding the expenditures of fish tax funds, or other fisheries program funds.

B. The Tribal Council may authorize a fish buyer to withhold the Tribal Fish Tax at the time of each sale of fish. Any fish buyer who withholds the Tribal Fish Tax shall remit the amount withheld to the Tribe immediately upon receipt of a tax invoice from the Tribe. Invoicing shall occur at least quarterly. Each payment shall be verified against the fish tickets for the sales involved. The fish buyer shall receive a receipt for the amount of tax remitted.

C. If a fish buyer does not withhold the Tribal Fish Tax at the time of sale, or if a fisher sells to a buyer to whom the sale of fish and shellfish has been prohibited, the Tribal fisher will remain liable for payment of the tax to the Tribe. Quarterly, the Fisheries Manager, or their designee, shall compute the amount of tax owed by each Tribal fisher and shall notify each fisher in writing of the amount of tax due from them. Failure to make full payment of the amount due as of March 31 each year, except as provided for Geoduck clams in *Section 6.08.03 (F) Tax On Fish Sold Commercially*, shall be grounds for suspension or revocation by the Tribal Court of any or all of the Tribal identification cards, permits, and licenses issued to the fisher.

D. The Tribal Council may prohibit the sale of fish and shellfish by Tribal citizens to those fish buyers who refuse to collect Tribal Fish Taxes or who may have failed to remit collected taxes to the Tribes in an accurate or timely manner. If the Tribal Council takes such action, it shall notify all Tribal fishers and provide them with a list of the buyers to whom the sale of fish and shellfish is prohibited.

E. Any licensed commercial fisherman may, at their option, pay the fish tax directly to the Tribe rather than having the buyers withhold the Tribal fish tax. With the exception of *Section 6.08.03 (F) Tax on Fish Sold Commercially*, the following shall apply:

1. Fishers paying their taxes directly to the Tribe with each quarterly statement shall pay a 4% tax. Quarterly statement dates are June 30, September 30, December 31 and March 31. In order to be eligible for the quarterly tax rate, fishers must pay the amount on each tax statement within fourteen (14) days from receipt of the statement by them.

2. Fishers paying their taxes directly to the Tribe on an annual basis shall pay a 5% tax. Annual taxes are calculated through March 31. Fishers shall pay the annual taxes within fourteen (14) days from receipt of the statement by them. Annual Tribal Commercial Fishing Permits will not be issued to a fisher until they have paid their taxes as stated in *Section 6.05.06 (D) Commercial and Net Fishing Permits*.

F. The Tribal Fish Tax imposed upon the commercial sale of Geoduck clams shall be established and modified at the discretion of the Tribal Council.

**Section 6.08.04 Tribal Citizen Fish and Shellfish Buyers/Sellers**

A. The Tribal Council may authorize and regulate the purchase and sale of treaty caught fish by Citizen fishers, buyers and re-sellers. Citizens may make an application annually to the Fisheries Manager for licensing by the Tribe as a Tribal Fish and Shellfish Buyer and Re-Seller. The Fisheries Manager shall provide eligible fish buyers and re-sellers with an embossed buyers card and re-seller card, or help make application for same to the Washington Department of Fish and Wildlife. No Citizen will be licensed as a fish buyer or re-seller if they owe any tax or fine to the Tribe under the provisions of any Title of the Tribal Code. No Citizen fish buyer or re-seller shall purchase bivalves (e.g., clams, oysters and Geoduck) unless they have been licensed as a Shellstock Shipper by the Washington Department of Health. Any Citizen who sells or re-sells bivalves to dealers must sell to Washington Department of Health licensed dealers approved by the Tribe.

B. The Tribal Council may impose taxes and/or licensing fees on Citizen fish buyers and re-sellers. The rate of tax and/or licensing fees shall be established each year by resolution of the Tribal Council. If the rate of tax and/or

licensing fee is not changed, it shall be the rate in force for the previous year.

C. All Citizen fish buyers and re-sellers licensed under *Section 6.08.04 (A)* shall pay any fish Taxes owed to the Tribe. A penalty fee of 10% of the amount due will be imposed monthly on delinquent payments. Failure to pay the annual tax invoice within 30 days shall be grounds for 1) suspension of this privilege as a buyer and re-seller, as well as 2) any other penalties that may be imposed for violation of this Title.

D. A Tribal Citizen buyer who hires a citizen or non-citizen employee to buy or sell fish and shellfish must apply annually to the Fisheries Manager for licensing. The Fisheries Manager will provide eligible employees an embossed employee buyers card and reseller card. A Tribal Citizen Buyer employee is authorized to use the card to buy and sell fish and shellfish exclusively for the Jamestown Tribal Citizen employer named in the buyer license agreement. The Tribal Citizen Buyer will be held accountable for any violations of Title 6 of the Tribal Code by their employees.

## Chapter 6.09
## General Fishing Provisions

**Sections:**

**Section 6.09.01 General Closure and Specific Openings**
**Section 6.09.02 Non-Commercial Hook and Line Fishing**
**Section 6.09.03 Manner of Fishing**
**Section 6.09.04 River Fishing – Limitations**
**Section 6.09.05 Fishing Traps**
**Section 6.09.06 Treaty fishing Outside Usual and Accustomed Grounds Prohibited**
**Section 6.09.07 Taking of Fish from Hatcheries Prohibited**
**Section 6.09.08 Use of Intoxicants Prohibited**
**Section 6.09.09 Littering and Dumping Prohibited**
**Section 6.09.10 Obstructing Officers of Fisheries Management Personnel Prohibited**
**Section 6.09.11 Destruction of Property Prohibited**
**Section 6.09.12 Stealing Fish Prohibited**
**Section 6.09.13 Marine Mammals**

### Section 6.09.01 General Closure and Specific Openings

All waters fished by the Tribe are closed to the taking of anadromous fish and shellfish unless the respective fishery is specifically opened by this Title or by annual or emergency regulations properly adopted under it.

### Section 6.09.02 Non-Commercial Hook and Line Fishing

A. Non-Commercial hook and line fishing by tribal citizens at usual and accustomed marine fishing grounds and stations is permitted for subsistence and/or sport purposes all year unless closed by properly adopted annual or emergency regulations.

B. Non-Commercial hook and line fishing by Tribal citizens at usual and accustomed freshwater fishing grounds and stations for subsistence and/or sport purposes is permitted whenever all citizen sport fisheries are opened and/or whenever any such areas are specifically opened by regulations under this Title.

C. No fish or shellfish taken under this subsection may be sold.

### Section 6.09.03 Manner of Fishing

A. Unless otherwise specified by regulation, all gillnets shall be tended at least once in every twenty-four (24) hour period, and, at that time, all fish captured in the net shall be removed. The person whose identification is attached to the net is the person responsible for tending the net. Failure to move an enforcement marker within twenty-four (24) hours, according to the instructions on the marker, will raise a presumption that the net has not been tended.

B. In Marine Area Codes 12, 12A and 12B, marine drift gillnets shall not exceed 2,000 feet (333 ftm.) in overall length or the length specified in the regulations, whichever is less. In all other areas, marine drift gillnets shall not exceed the length specified in the regulations, if any. Fishers shall be required to place markers on nets at the point of the legal length, as specified by the Fisheries Manager, and shall be prohibited from carrying nets on board which are in excess of the legal length.

C. The use of explosives or caustic or lethal chemicals in any form is expressly prohibited in all fisheries. The use of any method of disabling or capturing fish not expressly defined in this Title or regulations promulgated under it is prohibited, except as may be required by biological personnel for the purpose of biological research and management.

D. All boats and drift gillnets shall be properly lighted. All boats and other craft used in exercising Tribal fishing rights shall conform to the applicable United States Coast Guard regulations.

E. Upon closure of a fishing area, all nets and parts of nets, all pots, traps and other fishing gear must be completely removed from the closed area regardless of the condition of the fishing gear.

F. It shall be unlawful to waste or destroy fish or shellfish without good cause.

**Section 6.09.04 River Fishing - Limitations**

A. Gillnets shall not be operated closer than 150 feet from any other gillnet. Disputes regarding the placement of nets shall be resolved by the Fisheries Manager or his/her delegate who shall notify the Enforcement Office of his/her decision in writing.

B. No set nets shall extend across more than one-half of the width of that portion of the river which is navigable by salmon.

C. Blocking, by any means or gear whatsoever, more than one-half of the width of that portion of the river navigable by anadromous fish is prohibited. Fish traps and/or weirs may be used by the Tribal or Treaty Council fisheries staff for biological research or resource management.

**Section 6.09.05 Fishing Traps**

Notwithstanding any other provisions of this Title, the Tribal Council may authorize the use of fish traps and/or weirs by the Tribal Fisheries program or the Treaty Council for any purpose.

**Section 6.09.06 Treaty fishing Outside Usual and Accustomed Grounds Prohibited**

It shall be unlawful for any Citizen to use any of the cards or permits issued under *Section 6.03 Required Identification and Permits* of this Title to take or sell fish or shellfish caught outside of the usual and accustomed areas of the Tribe unless an invitational fishery has been authorized pursuant to applicable court orders. Violation of this section shall be cause for suspension or revocation, of any cards or permits so used, by the Committee after open hearing. Decisions of the Committee may be appealed to the Tribal Council whose decision is final.

**Section 6.09.07 Taking of Fish from Hatcheries Prohibited**

It shall be unlawful for any person not under the supervision of Tribal fisheries personnel to take, or attempt to take, any salmon species from any Tribal, State, Federal or private hatchery facility. Violation of this section shall be considered a serious offense and subject the violator to sanctions under this Title.

**Section 6.09.08 Use of Intoxicants Prohibited**

The use of intoxicants by fishers or their assistants during a treaty fishery is prohibited. No person shall exercise or assist in exercising treaty fishing rights while under the influence of any intoxicant, including alcohol, marijuana, and/or illegal drugs.

The use of any prescription medications to the extent that the person presents a danger to themselves or to the lives and property of others is prohibited.

For commercial dive fisheries, the following specific policy shall be in effect:

A. The Tribe is committed to providing a safe commercial dive environment that is free from the harmful effects of intoxicants. This policy applies to all those involved in the fishery including tribally certified commercial divers, dive vessel owners, dive operation employees, dive tenders and assistants. Compliance with all elements of this policy is a condition of continued certification and the privilege of participating in the commercial dive fisheries of the Jamestown S'Klallam Tribe.

B. In order to receive an annual permit to participate in any commercial dive fishery managed by the Tribe, all those involved in the fishery must pass an intoxicants test administered by a licensed drug laboratory. A list of laboratories approved by the Tribe is available from the Social and Community Services Office at the Tribal Center, 1033 Old Blyn Highway, Sequim, WA 98382.

C. If Tribal law Enforcement Officers or Tribal fisheries personnel have reasonable suspicion to believe anyone involved in a dive fishery is under the influence of any intoxicant they may suspend the dive operation immediately. Law enforcement personnel may administer an appropriate intoxicant test of the suspected individual(s), and may request the assistance of the Social and Community Services Officer and/or a Chemical Dependency Professional if deemed necessary.

D. Random intoxicant testing will be conducted as advised by the Dive Safety Officer, Chemical Dependency Professional and Fisheries Manager.

E. If an individual refuses to take the test(s) called for in this policy, such refusal will be treated as a positive test result.

F. Anyone involved in the commercial dive fisheries registering positive for controlled substances in any intoxicant test will be immediately suspended from participation in the dive operation. This shall be designated as the First Time Breach of this section regarding intoxicants.

G. Following the First Time Breach, the individual will have a treatment assessment completed by the Chemical Dependency Professional from the Social and Community Services Office of the Tribe. The Chemical Dependency Professional will make their recommendations for treatment of the individual to the Dive Safety Officer and Enforcement Manager. A treatment/recovery plan, if necessary, will be set in place and the individual will report to the Chemical Dependency Professional. All elements and terms of the treatment/recovery plan must be adhered to by the individual and guided by the Chemical Dependency Professional. Only the Chemical Dependency Professional will determine whether the individual will be reinstated to the commercial dive operation. No reinstatement will take place until the treatment/recovery plan has been established and agreed to. If an individual chooses to get treatment on their own, the Tribe's Chemical Dependency Professional will act as the case manager for decisions regarding reinstatement to commercial dive operations. The individual will ensure that all documentation of treatment is shared with the Chemical Dependency Professional so that person can determine if all treatment conditions have been met before reinstatement to the commercial dive operation is permitted.

H. A second positive test for controlled substances or an intoxicant test refusal (Second Time Breach) within 5 years of the First Time Breach will result in an immediate suspension from all commercial dive fishery operations. The individual may resume harvest privileges only after all terms and conditions set forth in a Second Time Breach treatment/recovery plan managed and supervised by the Chemical Dependency Professional, have been completed.

I. A third failed test within a 5-year period of the first test (Third Time Breach) will result in an immediate and on-going suspension from all commercial dive operations. The suspension will be in effect until such time it is determined the individual no longer poses a risk to themselves or others.

J. Any individual, whose privileges to participate in a Tribal commercial dive fishery have been suspended or terminated pursuant to this policy, may appeal such suspension or termination to the Natural Resources Committee. Should an individual decide to appeal a suspension or termination, their complete record of participation in the fishery will be subject to review. The Committee will also consult with the Chemical Dependency Professional, Dive Safety Officer and the Enforcement Manager when considering such appeals. The appellant will have a right to address the Committee and thoroughly review the reasons for the suspension or termination.

If the Committee affirms the steps taken which lead to the suspension or termination, the appellant may then present their case to the Tribal Council. Based on the record developed by the Committee and the information brought by the appellant, Tribal Council may exercise its authority to support, amend, commute or pardon the suspension or termination. The appellant has a right to notice of the reasons for the decision to affirm or deny the appeal.

The decision of the Tribal Council shall be deemed an exhaustion of administrative and legislative appeals under this policy. An individual shall exhaust all administrative appeals prior to appealing to the Tribal Court.

**Section 6.09.09 Littering and Dumping Prohibited**

No person engaged in, or on the way to or from, the exercise of treaty fishing rights, shall discard or otherwise dispose of any litter or other waste material upon any public or private property or in any waters.

**Section 6.09.10 Obstructing Officers of Fisheries Management Personnel Prohibited**

A. It shall be unlawful to interfere with or prevent any Enforcement Officer from carrying out their lawful duties.

B. It shall be unlawful to willfully interfere with or prevent fisheries management personnel of the Tribe, the Treaty Council, the State, or Federal agencies from carrying out their professional management duties.

Any person convicted of violating the provisions of this section shall be sentenced to a fine of Five Thousand Dollars ($5,000.00) and/or have their Tribal fishing permit suspended for a period of at least 30 days during the fishing season.

**Section 6.09.11 Destruction of Property Prohibited**
Any person who willfully and without authorization, damages or destroys a fishing net, boat, or other fishing gear, not their own, shall be guilty of an offense under this Title.

**Section 6.09.12 Stealing Fish Prohibited**
It shall be unlawful to remove fish or shellfish from another fisher's gear without the permission of the owner of that gear. It shall also be unlawful to take or use another fisherman's boat and/or fishing gear without permission of the owner.

**Section 6.09.13 Marine Mammals**

A. The taking of marine mammals is prohibited except as provided by this Section. Take means to (or attempt to) harass, hunt, capture, or kill.

B. A tribal fisher, and tribal fisheries Enforcement Officers and management professional may incidentally take a non-depleted marine mammal (species above its optimum sustainable population level) under circumstances specified below when exercising, enforcing or managing the Tribe's treaty right to fish.

C. Incidental take of non-depleted marine mammals;

1. may occur if fishers, Enforcement Officers or management professionals are deterring it from damaging catch or deployed fishing gear and these acts are not intended to result in the death or serious injury to these animals.
2. may allow tribal fishers and tribal fisheries Enforcement Officers and management professionals after attempting non-lethal steps to deter a harbor seal or California sea lion from damaging catch or deployed fishing gear to take these animals by lethal means consistent with this Section.
3. by tribal fishers, and tribal fisheries Enforcement Officers and management professionals shall ensure that any methods used to prevent marine mammals from interfering with treaty fishing operations will not create an imminent risk to public safety.

D. Tribal fishers may incidentally take a non-depleted marine mammal while conducting treaty fishing operations. Such incidental take includes but is not limited to entanglement of a non-depleted marine mammal in fishing gear.

E. Tribal fishers or tribal fisheries Enforcement Officers and management professionals may incidentally take by non-lethal or lethal means a marine mammal if such take is immediately necessary in self-defense or during a life-threatening event.

F. Tribal treaty fishers or tribal fisheries Enforcement Officers and management professionals shall report any incidental take of marine mammals to the Tribe's Natural Resources Department within 48 hours or as soon as possible.

G. The carcass of any marine mammal incidentally taken and killed under this Section may be returned to sea. If the carcass is retained it must be made available to the Tribe's Natural Resources Department for sampling, after which it shall be made available for ceremonial and subsistence use by the Tribe.

## Chapter 6.10
## Enforcement

**Sections:**

**Section 6.10.01 Fish and Game Enforcement Officers**
**Section 6.10.02 Cross-Deputization**
**Section 6.10.03 Citation and Arrest**
**Section 6.10.04 Notification or Rights**
**Section 6.10.05 Searches with or Without a Warrant**
**Section 6.10.06 Seizure of Fish and/or Gear**
**Section 6.10.07 Return of Seized Property**
**Section 6.10.08 Forfeiture of Seized Property; Disposal of Unmarked or Unclaimed Property**
**Section 6.10.09 Disposition of Property Forfeited by the Tribal Court**

### Section 6.10.01 Fish and Game Enforcement Officers

A. The Tribal Council shall appoint one or more persons to serve as Fish and Game Enforcement Officers. The Tribal Council shall have the power to enter into an agreement with another tribe and/or with the Treaty Council whereby the fish and game enforcement officers of said other tribe and/or the Treaty Council may act as Enforcement Officers for the Tribe.

B. The Enforcement Officers shall have the authority to enforce the provision of this Title and all regulations promulgated under it. The Enforcement Officers shall regularly patrol the Tribes usual and accustomed fishing grounds and stations.

C. All Enforcement Officers shall comply with and be bound by all the provisions of this Title and all regulations promulgated under it.

### Section 6.10.02 Cross-Deputization

Notwithstanding any other provisions of this Title, the Tribal Council may enter into an agreement with another tribe, the Treaty Council, or state, federal or county governments providing for the Cross-Deputization of Fish and Game Enforcement Officers and/or law enforcement officers.

### Section 6.10.03 Citation and Arrest

Enforcement Officers shall have the authority to cite and arrest any person purporting to exercise Tribal fishing rights or the right to fish under the authority of this Title who is in violation of this Title or regulations promulgated under it, provided no Enforcement Officer shall arrest any person for said violation except when:

A. The offense occurs in the presence of the arresting officers, or

B. The officer has a warrant signed by a Tribal Judge commanding the arrest of such person or knows as a certainty that such a warrant has been issued, or

C. The officer has probable cause to believe the person being considered for arrest has committed the alleged offense.

### Section 6.10.04 Notification of Rights

Immediately upon arrest, an alleged violator shall be advised of the following:

A. The charges against them;

B. That have a right to remain silent;

C. That anything they say may be used against them in court; and

D. That they have a right to be represented by an attorney or spokesman at their own expense. If the arrest is made pursuant to a warrant, the accused shall be given a copy of the warrant at the time of the arrest or as soon thereafter as is reasonably possible.

**Section 6.10.05 Searches with or Without a Warrant**

A. An Enforcement Officer may search, without warrant, any gear, vehicle, boat, tent, camper, or any place or premises at or near the fishing site which they have reasonable suspicion to believe contains evidence of violations of this Title or regulation adopted or permits issued under it.

B. The Tribal Court may issue a search warrant and direct a search to be made in any place wherein it is alleged that any gear used in violation of, and any fish taken contrary to, this Title or regulations adopted under it is concealed or kept. No warrant of search and seizure shall be issued except upon a presentation of a written complaint based on probable cause, supported by oath of affirmation and charging the commission of violation of this Title or regulations issued under it. No warrant shall be valid unless it contains a description of the place to be searched and the gear to be seized and bears the signature of a duly qualified judge or judicial officer of the Tribal Court.

C. An Enforcement Officer may conduct, without a warrant, a protective search of individuals who are acting in a suspicious or hostile manner or who are being taken into custody for an alleged violation of this Title or regulations promulgated under it. The purpose of such a search is to disarm the person for the safety of the Enforcement Officer and others.

**Section 6.10.06 Seizure of Fish and/or Gear**

A. Upon arrest, or upon issuance of a citation, or upon service of a search warrant issued pursuant to Section 6.07.09 Limited Entry, the Enforcement Officer may seize all fish and shellfish or parts thereof which the officer has reasonable grounds to believe have been taken or killed by the alleged violator contrary to the provisions of this Title or regulations promulgated under it. An Enforcement Officer may, in addition, seize any gear or other paraphernalia (excluding a land vehicle used to transport the fisher to the fishing spot) which the officer has reasonable grounds to believe has been used in the commission of a violation of this Title or regulations promulgated under it; provided no gear or other paraphernalia shall be seized without a warrant pursuant to this sub-section or unless the alleged violator refuses to sign a citation or unless he or she is being taken into custody pursuant to the arrest or unless the gear is being seized as provided elsewhere in this Title.

B. An Enforcement Officer who has seized fish and shellfish or gear pursuant to this section shall prepare a written inventory of all items seized; one copy shall be given to the alleged violator, if known; one copy shall be filed with the Tribal Court, and one copy shall be returned to the Tribal Enforcement Office.

C. The arresting officer shall, as soon as practicable, sell all fish and shellfish seized from the alleged violator. The fish and shellfish shall be sold at the nearest market at the prevailing price. All proceeds from the sale shall be immediately deposited in a special account at the Tribal office. The accused shall receive a copy of the fish receiving ticket. The proceeds from the sale of seized fish shall be held until disposed of, pursuant to the order of the Tribal Court.

D. All items, other than fish or shellfish, seized pursuant to this section shall as soon as practicable be brought to the Tribal Office or the place designated by the Tribal Council for storage of seized property. Seized property shall be stored in such a manner as to minimize further damage to it and shall be held until disposed of, pursuant to order of the Tribal Court. Any storage charges incurred by the Tribe may be assessed against the alleged violator by the Tribal Court.

**Section 6.10.07 Return of Seized Property**

A. Any person whose property has been seized under the authority of this Title may appeal to the Tribal Court for release of said property. The Tribal Court may order immediate return of said property if the Court determines that said release is in the best interest of the fisheries resource, provided that the proceeds from the sale of seized fish and shellfish shall be returned only upon acquittal or dismissal. The Tribal Court shall expedite hearings on motions under this section.

B. Immediately upon acquittal or dismissal, the Tribal Court shall order returned to the person from whom it was seized all property and the proceeds from the sale of all fish or shellfish seized in connection with the charge in question.

C. Any items or proceeds not forfeited by order of the Tribal Court shall be returned to the person from whom seized, after the completion of the case and after the fines, if any, have been paid.

**Section 6.10.08 Forfeiture of Seized Property; Disposal of Unmarked or Unclaimed Property**

A. Upon Conviction: When a person has been convicted of violating a provision of this Title or any regulation promulgated under it, the Tribal Court may order forfeiture of any items seized in connection with the violation. The convicted person shall be given an opportunity to present evidence and argument to the Tribal Court regarding why it would be inequitable to forfeit those items seized.

B. Owner Unknown: In all cases where it appears the owner of gear or other items seized is unknown, the Tribal Court shall have the power to order forfeiture as follows:

1. The Tribal Court, upon application of the Tribe, shall order service of summons and notice of a hearing. Such service shall be accomplished by posting the summons and notice at the location from which the article was seized, at all tribal offices in the Point No Point Treaty Area and at the Treaty Council office, and by publishing the summons and notice in the Tribal newsletters of the member tribes of the Treaty Council.

2. The summons shall describe the article seized and shall set a date for a hearing on whether or not the item seized should be forfeited. Said hearing shall not be held until the passage of at least forty-five (45) days from the date the article was seized.

3. An affidavit of the Tribal representative accomplishing the service of summons and notice of hearing shall be filed with the Tribal Court. The affidavit shall state the place and date the summons and notice were submitted to each tribal newsletter for publication.

4. The owner of the article seized shall have the opportunity, at the date and time set in the summons, to appear before the Tribal Court and contest the forfeiture. The Tribal Court may enter an order forfeiting said article.

C. Disposition of Unmarked or Unclaimed Property: Whenever any fishing related personal property, such as crab pots, nets, buoys, etc., come into the possession of the officers of the Natural Resources Department ("NRD") in connection with the official performance of their duties the NRD shall secure and store the items for at least ninety (90) days at a suitable location. If the property remains unclaimed after ninety (90) days, the items shall be considered abandoned property and the Tribal Court in a forfeiture proceeding in accordance with Section 20.10 of Title 20 Civil Actions of the Tribal Code, may order the sale or disposal of said items at public auction or other means as facilitated by the NRD.

**Section 6.10.09 Disposition of Property Forfeited by the Tribal Court**

A. Disposition of Forfeited Property. Whenever property is forfeited under Sections 6.10.08 and 6.10.09, the Tribe through the NRD may:

1. Retain the property for official use;

2. Sell, by public sale or any other commercially feasible means, any forfeited property which is not required to be destroyed by law and which is not harmful to the public;

3. Forward it for destruction;

4. Transfer the forfeited personal property or the proceeds of the sale of any forfeited personal property to any other jurisdiction who participated directly or indirectly in the seizure or forfeiture of the property; or

5. Donate any unclaimed personal property to a nonprofit charitable organization. A nonprofit charitable organization receiving personal property donated under this section must agree to use the property, or its proceeds, to benefit those persons in need.

B. The proceeds from any sale under this section shall be used to pay:

1. All property expenses of the proceedings for forfeiture and sale including expenses of the acquisition, seizure, maintenance of custody, advertising, and Court costs; and/or

2. As determined by the Tribal Council.

## Chapter 6.11
## Citation to Tribal Court; Penalties and Sentencing

Sections:
**Section 6.11.01 Citation to Tribal Court**
**Section 6.11.02 Classes of Offences and Associated Penalties**
**Section 6.11.03 Sentencing Alternatives**
**Section 6.11.04 Bail and Forfeiture of Bail in Lieu of a Court Appearance**
**Section 6.11.05 Penalties for First and Subsequent Violations**
**Section 6.11.06 Conviction as Bar to Natural Resources Committee Membership, Tribal Council Membership and Employment**

**Section 6.11.01 Citation to Tribal Court**
All persons charged with a violation of this Title or regulation promulgated under it shall be cited to appear and answer said charges before the Tribal Court. Except in the case of bail forfeiture, failure to appear in Tribal Court shall constitute a separate offense and shall be punishable as any other violation of this Title or the Tribal Code. Also, failure to comply with a Tribal Court order issued pursuant to this Title shall constitute a separate offense and shall be punishable as any other violation of this Title or the Tribal Code.

**Section 6.11.02 Classes of Offences and Associated Penalties**
The following are the ranges of fines for each class of offense:

| Class A Offense | Class B Offense | Class C Offense | Class D Offense |
|---|---|---|---|
| $1,000 - $5,000 | $500 - $999 | $250 - $499 | $100 - $249 |

**Section 6.10.03 Sentencing and Sentencing Alternatives**
Any person who has been convicted by the Tribal Court of violating any provision of this Title or any regulation adopted under it shall be sentenced under the guidelines of this section unless a specific penalty is stated in the provision or regulation violated. When considering the propriety of the sentence to be imposed, the Tribal Court shall consider, among other things, the following:

A. Whether or not the offense involved a conservation threat to the fishery resource, and

B. Whether or not the convicted person has any prior fishery conviction.

Violations, which have significant impact on the resource, are more serious than other offenses and shall be punished accordingly. If the Tribal Court is in doubt as to whether a particular violation significantly impacts the fishery resource, it may request further information from the Fisheries Manager, Enforcement Officer, and/or biologist as to the seriousness of the threat.

Sentencing Alternatives are available to the Tribal Court for violations of this Title. It may subject a convicted individual to one or more of the following, provided that the court shall have discretion to suspend a sentence, or attach conditions, which it deems appropriate under the circumstances.

A. A money fine of not more than five thousand dollars ($5,000.00);

B. Community service for the benefit of the Tribe;

C. Forfeiture of all property, including fish, seized pursuant to a lawful arrest or issuance of a citation; or

D. Suspension or revocation of some or all privileges and/or licenses or permits granted by the Tribe;

E. In extreme cases, imprisonment for a period of time not to exceed 5 years.

**Section 6.11.04 Bail and Forfeiture of Bail**
<u>Bail</u>:

The amount of bail required to secure release from custody for a violation of this Title shall be equal to the highest dollar amount within the range set for the Class of Offense for which the person was arrested. Bail for a Class A offense is $5,000, Class B - $999, Class C - $499 and Class D - $249.

When Forfeiture of Bail is Permitted:
The first time a person is cited for allegedly violating this Title or a regulation promulgated under it, the person may forfeit bail instead of appearing in court to defend the charge if the violation is a class C or class D offence. The amount of money required to forfeit bail in lieu of a court appearance shall be equal to the highest dollar amount within the range set for the class of offense for which the person was cited ($499 for a class C offense and $249 for a class D offense.) Forfeiture of bail shall be considered as a guilty plea and shall have the same effect as a conviction.
When Forfeiture of Bail is Not Permitted:
*Appearance in court is mandatory for class A and class B offenses.*

**Section 6.11.05 Penalties for First and Subsequent Violations of this Title**
**First Violation:**
The minimum penalty for a first violation of this Title or regulations adopted under it shall be a fine equal to the amount of the lowest dollar amount within the range set for the class of offense. A fine assessed under this section may be suspended upon such conditions as the Court may order. Community service may be substituted for the amount of bail, up to a maximum of $150 if the violation is a class C or class D offense. An order for community service hours shall be issued only upon recommendation of the Tribe, through its spokesperson, to the Court. Each hour of community service shall reduce the fine by the amount of the federal minimum wage (rounded to the nearest dollar amount) at the time of sentencing.

**Second and subsequent violations:**
For the second and subsequent violations of this Title or regulations adopted under it, a person shall receive more than the minimum penalty established for that class of offense. In such cases the Court shall impose one or a combination of the following penalties:

A. A mandatory minimum fine in an amount not less than the lowest dollar amount within the range of fines set for that class of offense;

B. Forfeiture of all property, including fish and shellfish, seized pursuant to a lawful arrest or during the issuance of a citation;

C. Suspension or revocation of some or all privileges and/or licenses or permits granted by the Tribe under this Title; or

D. Imprisonment for a period of time not to exceed one (1) year for violations of section 6.13.49 Shellfish from Polluted Beach – Prohibitions and section 6.13.51 Assault, only.

E. When computing "second and subsequent violations" of this Title, or when considering prior convictions for sentencing, a violation shall not be counted after five (5) years from the date of conviction.

**Section 6.11.06 Conviction as Bar to Natural Resources Committee Membership, Tribal Council Membership and Employment**
No person who has been convicted of a violation of this Title, a regulation promulgated hereunder, or a regulation properly adopted by the Treaty Council, which the Tribal Court, upon advisement of either a Tribal or a treaty biologist, has determined to be a conservation threat to the fishery resource shall be allowed to serve on the Committee or Tribal Council nor shall they be employed by the Tribal fisheries program for a period of two (2) years after their conviction. A person so convicted during their term of office on the Committee or Tribal Council or employment with the Tribal fisheries program shall be removed from said office or employment upon conviction. The Tribal Council shall appoint someone to serve the remaining term of office of the convicted Committee or Tribal Council citizen, and may hire a replacement for any convicted fisheries program employee.

## Chapter 6.12
## General Offenses by Class of Offense

**Sections:**

**Section 6.12.01 Fishing without Obtaining Identification and Permits**
**Section 6.12.02 Fishing without Identification and Permits in Possession**
**Section 6.12.03 Failure to produce Identification and permits to Law Enforcement Officers**
**Section 6.12.04 Unauthorized transfer of Permit or Identification Prohibited**
**Section 6.12.05 Vessel Registration requirements- Fail to comply**
**Section 6.12.06 Use of Another's Boat Numbers or Annual Vessel Permit Prohibited**
**Section 6.12.07 Rental or Lease of Fishing Gear Prohibited**
**Section 6.12.08 Fishing on a vessel obtained by a lease, a lease purchase agreement, or a percentage-of-catch agreement is prohibited**
**Section 6.12.09 Commercial use of a vessel by unauthorized persons**
**Section 6.12.10 Exercising Treaty Fishing Rights on a vessel not owned by the Tribe or a Citizen**
**Section 6.12.11 Giving False Information to Obtain Purchase**
**Section 6.12.12 Allowing Non-Citizens to assist in Treaty Fishing**
**Section 6.12.13 Allowing Non-Citizens to be Aboard a Vessel while Fishing**
**Section 6.12.14 Citizens Employed as Assistants- Prohibitions**
**Section 6.12.15 Allowing a minor to fish contrary to the Fishing Ordinance is Prohibited**
**Section 6.12.16 Minors - Diving Prohibited**
**Section 6.12.17 Allowing a Minor to Dive is Prohibited**
**Section 6.12.18 Failure to Record sale of a Fish on a Fish Ticket**
**Section 6.12.19 Providing False information on a Fish Ticket**
**Section 6.12.20 Failure to fill out a Fish Ticket accurately and completely**
**Section 6.12.21 Failure to Present an Embossed Identification Card**
**Section 6.12.22 Failure to fill out and return Subsistence/Ceremonial cards**
**Section 6.12.23 Sale of Another's fish is Prohibited**
**Section 6.12.24 Citizen selling Fish while on a Non-Citizen Fishing Vessel is Prohibited**
**Section 6.12.25 Citizen Fishing or Selling Fish under a State License is Prohibited**
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**Section 6.12.35 Vandalism / Unauthorized Use / Theft**
**Section 6.12.36 Taking of Fish from Hatcheries**
**Section 6.12.37 Littering Prohibited**
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**Section 6.12.39 Gill Net Buoy and Net Identification Requirements**
**Section 6.12.40 Unattended Nets**
**Section 6.12.41 Improper Lighting**
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**Section 6.12.43 Set Nets to be Tended Daily**
**Section 6.12.44 Failure to Remove Nets and Fishing Gear upon Closure**
**Section 6.12.45 Nets to Block River prohibited**
**Section 6.12.46 River Gill Nets to be attended**
**Section 6.12.47 Nets to be Spaced Minimum 150 Feet Apart**
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**Section 6.12.49 Shellfish Harvesting Gear Prohibitions**
**Section 6.12.50 Shell Fishing in a Closed area**
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**Section 6.12.52 Fishing while Privilege is Revoked or Suspended**
**Section 6.12.53 Assault**
**Section 6.12.54 Resisting Arrest**
**Section 6.12.55 Eluding**
**Section 6.12.56 Escape**
**Section 6.12.57 Obstruction**
**Section 6.12.58 Interference with a Fishery Management Personnel**
**Section 6.12.59 Giving False Information to an Enforcement Officer**
**Section 6.12.60 Failure to Assist and Officer**
**Section 6.12.61 Violations of Regulations and Permits**
**Section 6.12.62 Use of Intoxicants / Fishing while Intoxicated**
**Section 6.12.63 Theft of Fish**

**Section 6.12.01 Fishing without Obtaining Identification and Permit**
Any person subject to the provisions of this Title who exercises or purports to exercise any treaty fishing or shell fishing right without first obtaining valid and current Tribal identification and permits, as required in this Title and applicable regulations, is guilty of a **class B** offense, as defined in Chapter 6.11 of this Title. All further references in this Chapter to classes of offenses is in reference to the descriptions set out in Chapter 6.11, above.

**Section 6.12.02 Fishing without Identification and Permits in Possession**
Any person subject to the provisions of this Title who exercises or purports to exercise any treaty fishing or shell fishing right or engages in the sale of fish or shellfish without having in their possession valid and current tribal identification and permits as required in this Title and applicable regulations, is guilty of a **class C** offense.

**Section 6.12.03 Failure to produce Identification and permits to Law Enforcement Officers**
Any person subject to the provisions of this Title who fails to produce for examination their identification and permits required by this Title or regulations, upon demand by any tribal, state or federal law enforcement officer, is guilty of a **class C** offense.

**Section 6.12.04 Unauthorized transfer of Permit or Identification Prohibited**
Any person subject to the provisions of this Title who transfers any permit or identification issued to them under this Title to another person for the purpose of allowing the transferee to engage in a treaty fishery is guilty of a **class B** offense.

**Section 6.12.05 Vessel Registration Requirements – Failure to comply**
Any person subject to the provisions of this Title who fails to comply with any vessel registration requirements under *Section 6.06.01* of this Title or applicable regulations is guilty of a **class C** offense.

**Section 6.12.06 Use of Another's Boat Numbers or Annual Vessel Permit Prohibited**
Any person subject to the provisions of this Title who affixes the boat number or annual vessel permit to a vessel other than the one for which it was issued is guilty of a **class B** offense.

**Section 6.12.07 Rental or Lease of Fishing Gear Prohibited**
Any person subject to the provisions of this Title who:

A. Uses or possesses any rented or leased fishing gear while exercising treaty fishing rights; or

B. Rents or leases their gear to another,

is guilty of a **class A** offense.

**Section 6.12.08 Fishing on a vessel obtained by a lease, a lease purchase agreement, or a percentage-of-catch agreement is prohibited**
Any person subject to the provisions of this Title who fishes from a vessel that is subject to a lease, a lease purchase agreement or a percentage-of-catch agreement is guilty of a **class A** offense.

**Section 6.12.09 Commercial use of vessel by unauthorized persons**
Any person subject to the provisions of this Title who allows a Tribally registered vessel to be commercially fished by a person not authorized to do so under this Title is guilty of a **class B** offense.

**Section 6.12.10 Exercising Treaty Fishing Rights on a Vessel not owned by the Tribe or a Citizen**
Any person subject to the provisions of this Title who engages in any treaty fishing activity from a vessel that is not either wholly owned by the fisherman, a Citizen, or the Treaty Council, or is in the fisherman's custody pursuant to a legally binding purchase contract is guilty of a **class B** offense.

This prohibition shall not apply to:

A. A test fishery conducted under this Title; or

B. A Citizen who is an assistant on a Non-Citizen's fishing vessel as authorized under this Title.

**Section 6.12.11 Giving False Information to Obtain Purchase**
Any person subject to the provisions of this Title who knowingly provides false information in order to obtain approval of a purchase contract of a fishing vessel is guilty of a **class B** offense.

**Section 6.12.12 Allowing Non-Citizens to assist in Treaty Fishing**
Any person subject to the provisions of this Title who allows any Non-Citizen, not expressly authorized by this Title, to assist in treaty fishing activity is guilty of a **class B** offense.

For the purposes of this section, "assist in any treaty fishing activity" is defined to include 1) any handling of the fishing or shell fishing gear, nets, ropes, and lines being used by the Citizen, 2) carrying of the fish or shellfish caught by the Citizen, or 3) engaging in any activity intended to cause or result in fish or shellfish being caught by the Citizen.

**Section 6.12.13 Allowing Non-Citizens to be Aboard a Vessel while Fishing**
Any person subject to the provisions of this Title who allows any Non-Citizen, not otherwise authorized pursuant to this Title, to be present aboard any fishing vessel being used in the exercise of treaty fishing or shell fishing rights of the Tribe is guilty of a **class B** offence.

**Section 6.12.14 Citizens Employed as Assistants - Prohibitions**
Any person subject to the provisions of this Title, who is employed as an assistant on a fishing vessel owned, operated and/or licensed by a citizen/member of another tribe who possesses treaty fishing rights pursuant to U.S. v. Washington, if:

A. The owner/operator is not aboard the vessel while it is being fished; or

B. The vessel is being fished outside the usual and accustomed fishing area of the owner/operator's tribe,

is guilty of a **class B** offense

**Section 6.12.15 Allowing a Citizen Minor to Fish Contrary this Title is prohibited**
Any Citizen parent or guardian of a Citizen minor, who allows that minor to fish in violation of any section of this Title, is guilty of a **class D** offense (see Section 6.04.01 C.).

**Section 6.12.16 Minors - Diving Prohibited**
Any Citizen minor who dives in the exercise of their treaty fishing rights is guilty of a **class B** offense.

**Section 6.12.17 Allowing a Minor to Dive is Prohibited**
Any Citizen parent or guardian of a Citizen minor who allows that minor to dive in the exercise of the minor's treaty fishing rights is guilty of a **class A** offense.

Any Citizen owner or any operator of a vessel who allows a Citizen minor to exercise the minor's treaty fishing rights by diving from the vessel is guilty of a **class A** offense.

**Section 6.12.18 Failure to Record Sale of Fish on a Fish Ticket**
Any person subject to the provisions of this Title who sells or offers for sale fish or shellfish not recorded on their fish ticket is guilty of a **class A** offense.

**Section 6.12.19 Providing False Information on a Fish Ticket**
Any person subject to the provisions of this Title who knowingly allows false information to be recorded on a fish ticket is guilty of a **class A** offense.

**Section 6.12.20 Failure to Fill Out a Fish Ticket Accurately and Completely**
Any person subject to the provisions of this Title who:

A. Fails to fill out their fish ticket completely and accurately and sign their fish ticket; or

B. Allows another to fill out their fish ticket with incomplete or inaccurate information,

is guilty of a **class C** offence.

The fisherman's signature on a fish ticket constitutes an affirmation that the information on the fish ticket is correct.

**Section 6.12.21 Failure to Present an Embossed Identification Card**
Any person subject to the provisions of this Title who:

A. Fails to present to the buyer at the time of sale of fish or shellfish their embossed Tribal Fishing Identification Card or other embossed card required by this Title or regulations; or

B. Allows their fish ticket to be filled out without the imprint from the buyer's valid, embossed Washington State fish buyer's card or fish buyer's card required by the Tribe,

is guilty of a **class C** offense.

**Section 6.12.22 Failure to fill out and Return Subsistence/Ceremonial Cards**
Any person subject to the provisions of this Title who engages in non-commercial fishing or shell fishing activity and fails to fill out and return a Subsistence/Catch Reporting Card or harvest log to the Natural Resources Department by the expiration date, or earlier if required by emergency regulation, is guilty of a **class D** offense.

**Section 6.12.23 Sale of Another's Fish is Prohibited**
Any person subject to the provisions of this Title who sells or offers for sale fish or shellfish caught by another, unless expressly authorized by the Title or fishing/shell fishing regulations, is guilty of a **class A** offense.

**Section 6.12.24 Citizen Selling Fish while on a Non-Citizen Fishing Vessel is Prohibited**
Any Citizen who is employed as an assistant aboard a Non-Citizen's fishing vessel who uses any cards or permits issued by the Tribe or Treaty Council to sell on fish tickets any fish or shellfish caught by that vessel, or allows the sale on fish tickets of any fish or shellfish caught by that vessel to be recorded as caught by a Citizen, is guilty of a **class A** offense.

**Section 6.12.25 Citizens Fishing or Selling Fish under a State License is Prohibited**
Any person subject to the provisions of this Title who participates in fishing or shellfishing or sells fish or shellfish on a fish ticket under a Washington State fishing license within the Tribe's U&A is guilty of a **class B** offense.

**Section 6.12.26 Recording Fish Caught outside of the Usual and Accustomed Area on a Fish Ticket**
Any person subject to the provisions of this Title who allows fish or shellfish to be recorded on a fish ticket as caught by a Citizen, when the fish or shellfish has been caught outside of the usual and accustomed fishing grounds of the Tribe's U&A is guilty of a **class A** offense.

**Section 6.12.27 Sale of a Fish Caught without the Proper Permits, Cards, Identification and Registration**
Any person subject to the provisions of this Title who shall sell or offer for sale any fish or shellfish, caught or taken under

any of the following conditions, is guilty of a **class B** offense:

A. Without the proper, valid identification and permits as required by this Title; or

B. In a test fishery and not recorded on a test fishery card; or

C. Which are the property of the Tribe or Treaty Council, without properly recording the sale using the proper card under *Section 6.05.01* of this Title or

D. With any vessel which has not been registered in compliance with this Title.

**Section 6.12.28 Sale of Fish Taken Unlawfully**
Any person subject to the provisions of this Title who shall sell or offer for sale any fish or shellfish taken with commercial gear in an area not specifically opened to commercial fishing with that gear is guilty of a **class B** offense.

**Section 6.12.29 Sale of a Fish Caught for Subsistence or Recreational Purposes**
Any person subject to the provisions of this Title who shall sell or offer for sale any fish or shellfish caught for subsistence or recreational purposes is guilty of a **class B** offense.

**Section 6.12.30 Sale to Prohibited Buyers**
Any person subject to the provisions of this Title who sells fish or shellfish to any buyer who has been prohibited from buying fish from Citizens is guilty of a **class C** offense.

**Section 6.12.31 Fishing outside of the Usual and Accustomed area**
Any person subject to the provisions of this Title, who purports to exercise the treaty fishing rights of the Tribe in any area which is outside the Tribe's U&A, is guilty of a **class A** offense.

A guilty finding shall be cause for the suspension or revocation of any cards or permits so used by the Citizen upon review by the Committee after an open hearing (see *Section 6.09.06*).

It shall be unlawful for any Citizen to use any of the cards or permits issued under *Section 6.03. Required Identification and Permits* of this Title to take or sell fish or shellfish caught outside of the Tribe's U&A unless an invitational fishery has been authorized pursuant to applicable court orders. Violation of this section shall be cause for suspension or revocation of any cards or permits so used, by the Committee, after open hearing. Decisions of the Committee may be appealed to the Tribal Council whose decision is final.

**Section 6.12.32 Fishing in a Closed Area**
Any person subject to the provisions of this Title who engages in fishing at any place, at any time, or for any species not specifically opened by this Title or by annual or emergency regulations, is guilty of a **class A** offense.

**Section 6.12.33 Unauthorized Test Fishery – Compliance with Requirements**
Any person subject to the provisions of this Title is guilty of a **class B** offense who:

A. Conducts or participates in a test fishery that has not been authorized by the Fisheries Manager or the Treaty Council; or

B. Who fails to obey all gear, time, area, and reporting requirements of the test fishery.

**Section 6.12.34 Unauthorized Gear/Prohibited**
Any person subject to the provisions of this Title who uses gear or any other method of disabling or capturing fish or shellfish not permitted in this Title or regulations adopted under it, except as may be required by biological personnel for the purpose of biological research and management, is guilty of a **class B** offense.

**Section 6.12.35 Vandalism / Unauthorized use / Theft**
Any person subject to the provisions of this Title who willfully and without authorization takes, uses, tampers with, damages or destroys a fishing net, vessel, other fishing or shell fishing gear, or fish or shellfish, not their own, is guilty of a **class A** offense (see *Section 6.09.11*).

**Section 6.12.36 Taking of Fish from Hatcheries**
Any person subject to the provisions of this Title, who is not under the supervision of Tribal Fisheries personnel, who takes, or attempts to take, or who harvests any fish from any tribal, state, federal or private hatchery facility is guilty of a **class A** offense (see *Section 6.09.07*).

**Section 6.12.37 Littering Prohibited**
Any person subject to the provisions of this Title who discards or disposes of any litter or other waste material while engaged in the exercise of treaty fishing rights or on the way to or from, is guilty of a **class B** offense (see *Section 6.09.09*).

**Section 6.12.38 Violation of Net Length Limits**
Any person subject to the provisions of this Title who fishes with more than 330 fathoms of a marine drift gillnet in any area, other than marine area codes 4B, 5 and 6C, is guilty of a **class B** offense.

The phrase "fishes with," for purposes of this section only, does not include any portion of the net or parts of nets joined together which are not actually in the water.

**Section 6.12.39 Gill Net Buoy and Net Identification Requirements**
All nets shall be conspicuously marked with the Tribal identification card number of the fisherman operating the net and shall be marked in such a manner that the fishers and Tribal affiliation can be identified without removing the net from the water.

The Enforcement Officers may seize all unmarked nets, which are unattended, and any fish found in them as provided in *Section 6.10.06*.

Any person subject to the provisions of this Title who fishes with a marine drift gillnet without a buoy attached which:

A. Is constructed of durable material excluding plastic or metal bottles or other containers; and

B. Has a weighted buoy line to keep it from floating,

is guilty of a **class C** offense.

**Section 6.12.40 Unattended Nets**
Any person subject to the provisions of this Title who leaves their marine drift gillnet unattended is guilty of a **class C** offense.

**Section 6.12.41 Improper lighting**
Any person subject to the provisions of this Title who exercises treaty fishing rights in marine waters on a vessel while using a drift gillnet which is not properly lighted according to U.S. Coast Guard regulations is guilty of a **class D** offense.

**Section 6.12.42 Net Identification Requirements**
Any person subject to the provisions of this Title who fishes with a set net that is not:

A. Conspicuously marked at the outermost (seaward) ends with the Tribal Identification Card number of the fisherman operating the gear; and

B. Marked in such a way that the fisherman and the tribal affiliation can be identified without removing the gear from the water,

is guilty of a **class C** offense.

**Section 6.12.43 Set Nets to be Tended Daily**
Any person subject to the provisions of this Title who fails to tend their set gillnet and remove all fish captured in the net at least once in every twenty-four (24) hour period, is guilty of a **class B** offense.

**Section 6.12.44 Failure to Remove Nets and Fishing Gear Upon Closure**

Any person subject to the provisions of this Title who, upon closure of a fishing area, fails to completely remove all nets and parts of nets, buoys, anchors, fishing gear, fishing equipment, pots, cross lines, and any other items used in the work of fishing, regardless of the condition of the gear, , is guilty of a **class B** offense.

**Section 6.12.45 Nets to Block River Prohibited**
Any person subject to the provisions of this Title who allows a set net to extend across or block, by any means, more than half of the portion of the river which is navigable by salmon is guilty of a **class B** offense

**Section 6.12.46 River Gill nets to be attended**
Any person subject to the provisions of this Title who fishes with a river gillnet and leaves it unattended is guilty of a **class B** offense.

**Section 6.12.47 Nets to be Spaced Minimum 150 Feet Apart**
Any person subject to the provisions of this Title who sets or allows any part of any river gillnet to drift closer than 150 feet to any other gillnet is guilty of a **class D** offense.

**Section 6.12.48 Buoy Identification Requirements**
All unattended pots, traps, and long lines that are deployed in the water shall have buoys attached. All buoys shall be conspicuously marked with the Tribal identification card number of the fisherman operating the gear and shall be marked in such a way that the fisherman and Tribal affiliation can be identified without removing the gear from the water. All buoys shall be constructed of durable material excluding plastic or metal bottles and other containers. The buoy line shall be weighted to keep it from floating. Any person subject to the provisions of this Title who fails to comply with any provision of this section is guilty of a **class C** offense.

**Section 6.12.49 Shellfish Harvesting Gear Prohibitions**
Any person subject to the provisions of this Title who harvests shellfish, not including crab and shrimp, using any gear other than hand-held gear, unless authorized by this Title or emergency regulation, is guilty of a **class C** offense.

**Section 6.12.50 Shell Fishing in a Closed Area**
Any person subject to the provisions of this Title who engages in shell fishing at any place, at any time, or for any species not specifically opened by this Title or by annual or emergency regulations is guilty of a **class A** offense.

**Section 6.12.51 Shell Fishing from a Polluted Beach – Prohibitions**
Any person subject to the provisions of this Title who:

A. Takes shellfish from a polluted beach; or

B. Transfers, transports, offers for sale, or sells shellfish from a polluted beach; or

C. Attempts any conduct prohibited under this section,

is guilty of a **class A** offense.

This section shall not apply to the relay of shellfish from a polluted beach to a clean beach, when authorized by the Fisheries Manager.

**Section 6.12.52 Fishing While Privilege is Revoked or Suspended**
Any person subject to the provisions of this Title who participates in fishing or shell fishing activity or sells fish or shellfish while their fishing privilege is suspended or revoked or during a time when the Tribal Court has ordered a loss of fishing days for the Citizen, is guilty of a **class A** offense.

**Section 6.12.53 Assault**
Any person subject to the provisions of this Title who uses or threatens to use force or violence against a Fish and Game Enforcement Officer or any other person is guilty of a **class A** offense.

**Section 6.12.54 Resisting Arrest**

Any person subject to the provisions of this Title who willfully resists arrest by use of force or violence or who flees from an Enforcement Officer is guilty of a **class A** offense.

**Section 6.12.55 Eluding**
Any person subject to the provisions of this Title who fails to or refuses to stop a vessel after being given a visible or audible signal by an Enforcement Officer is guilty of a **class A** offense.

**Section 6.12.56 Escape**
Any person subject to the provisions of this Title who escapes, attempts escape, or assists another to escape from lawful custody for any fishing-related or shell fishing-related offense is guilty of a **class A** offense.

**Section 6.12.57 Obstruction**
Any person subject to the provisions of this Title who willfully interferes with or obstructs any Enforcement Officer engaged in the lawful performance of their duties is guilty of a **class A** offense.

**Section 6.12.58 Interference with Fishery Management Personnel**
Any person subject to the provisions of this Title who willfully interferes with or prevents fisheries management personnel of the Tribe, the Treaty Council, or state or federal agencies, from carrying out their professional management duties is guilty of a **class A** offense.

**Section 6.12.59 Giving False Information to an Enforcement Officer**
Any person subject to the provisions of this Title who knowingly gives false information to an Enforcement Officer is guilty of a **class B** offense.

**Section 6.12.60 Failure to Assist an Officer**
Any person subject to the provisions of this Title who fails to respond to a request for assistance by any Enforcement Officer or who disobeys the lawful command of an Enforcement Officer is guilty of a **class C** offense.

**Section 6.12.61 Violations of Regulations and Permits**
Any person subject to the provisions of this Title who fails to comply with:

A. Any provision of this Title, or

B. Any fishing or shell fishing regulation adopted pursuant to this Title, or

C. The terms or conditions stated on any shell fishing permit,

when such failure has not been specifically designated as an offense under this Title or which does not carry with it a specific penalty, is guilty of a **class C** offense.

**Section 6.12.62 Use of Intoxicants prohibited / Fishing while intoxicated**
Any person subject to the provisions of this Title who fishes or participates in any treaty fishery under the influence of alcohol or illegal drugs, or is determined to have used alcohol or illegal drugs prior to or during participation in a treaty fishery is guilty of a **class C** offense. Any Citizen found guilty of this section shall have their fishing privileges revoked for one (1) calendar year from the date of sentencing (see *Section 6.09.08*).

**Section 6.12.63 Theft of Fish**
Any person subject to the provisions of this Title who takes or wrongfully obtains any fish, shellfish, clam oyster or any other species from another's net, pot, bag or any container with the intent to deprive them of such property, is guilty of a **class B** offense.

## Chapter 6.13
## Construction and Severability

**Sections:**
**Section 6.13.01 Liberal Construction**
**Section 6.13.02 Severability Clause**

### Section 6.13.01 Liberal Construction
This Title shall be liberally construed to give full effect to the objectives and purposes for which it was enacted.

### Section 6.13.02 Severability Clause
If any provisions of this Title, or its application to any person or legal entity or circumstance, is held invalid, the remainder of the Title, or the application of the provision to other persons or legal entities or circumstances, shall not be affected.

## Chapter 6.14
## Codification and Amendments

**Sections:**
**Section 6.14.01 Codification**
**Section 6.14.02 Amendments**

### Section 6.14.01 Codification
Title 06 Fishing was created at a Tribal Council meeting on October 19, 2004 under Resolution 42-04 and codified as a Title in this code on February 18, 2005 with Resolution #11-05.

### Section 6.14.02 Amendments
Title 06 Fishing was amended at a Tribal Council meeting on August 26, 2008, September 28, 2009, September 27, 2010 and December 6, 2010. Title 06 Fishing Code was further amended on July 2, 2012 by Resolution #29-12, amended at a Tribal Council meeting on August 7, 2013. Title 06 Fishing Code was further amended on September 11, 2013 by Resolution #31-13. Title 06 Fishing Code was further amended on October 22, 2013 by Resolution #37-13. Title 06 Fishing Code was further amended at a Tribal Council meeting on September 23, 2015. Title 06 Fishing Code was further amended at a Tribal Council meeting held on November 24, 2015 with Resolution #40-15.