

JAMESTOWN S'KLALLAM TRIBE
TRIBAL CODE
TITLE 42 – GATHERING CODE

Chapters:

Chapter 42.01 General Provisions

Chapter 42.02 Adoption of Gathering Regulations

Chapter 42.03 General Closures and Specific Closures

Chapter 42.04 Eligible Gatherers

Chapter 42.05 Gathering for Ceremonial Use

Chapter 42.06 Gathering for Other Citizens

Chapter 42.07 Gathering with Non-Citizens

Chapter 42.08 General Offenses

Chapter 42.09 Penalties and Sentencing

Chapter 42.10 Liberal Construction

Chapter 42.11 Enforcement

Chapter 42.12 Codification and Amendments

Chapter 42.01 General Provisions

Sections:

Section 42.01.01 Title

Section 42.01.02 Declaration of Policy

Section 42.01.03 Natural Resources Committee

Section 42.01.04 Definitions

Section 42.01.05 Jurisdiction

Section 42.01.06 Applicability of Title

Section 42.01.07 Violation of 18 U.S.C. §1165

Section 42.01.08 Reporting Requirements

Section 42.01.01 Title

This Title shall be known and may be cited as the Jamestown S’Klallam Tribe Gathering and Wood Cutting Code.

Section 42.01.02 Declaration of Policy

Gathering, harvesting and wood cutting, along with fishing and hunting, have always been central to the cultural, subsistence, and economic life of the Jamestown S’Klallam Tribe and its citizens. By this Title, and the Regulations adopted under it, the Tribe intends to exercise control over treaty gathering rights, and related activities, to the fullest extent of Tribal jurisdiction in order to properly regulate, manage, and ensure the continued availability of gathering resources 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 or its citizens.

Section 42.01.03 Natural Resources Committee

For purposes of this Title, the Natural Resources Committee (“NRC” or “Committee”), formerly known as the Fish and Game Committee, shall act in an advisory capacity to the Tribal Council, the Natural Resources Department and/or the Point No Point Treaty Council (PNPTC). The NRC shall, from time-to-time, provide to the Tribal Council: 1) proposed revisions to this Title; 2) proposed Regulations to be adopted, pursuant to this Title, by the Tribal Council; 3) such other recommendations, as are appropriate, to ensure effective implementation of this Title; and 4) such other relevant input as the Tribal Council may request.

Section 42.01.04 Definitions

The following definitions shall apply in this Title unless the context clearly requires otherwise:

- A. "Adult" means any Tribal citizen who is eighteen (18) years of age or older;
- B. “Citizen Minor as Head of Household” means a citizen under the age of 18, who is legally declared free from parental or adult guardianship, granting them most of the rights and responsibilities of a legal adult.
- C. "Closed Areas" means any place described or designated by this Title or a Regulation promulgated under it, where it is unlawful to gather;
- D. "Closed Season" means all times during the entire year except those times when an "open season" is designated by this Title or a Regulation promulgated under it;
- E. “Downed wood” means any dead and leaning, fallen, or blown down tree, including recently fallen or blown down trees still holding green leaves, and slash piles;
- F. “Enforcement Officer(s)” means the person or persons charged with the responsibility of enforcing this Title and the Regulations promulgated under it;
- G. “Gathering” means harvesting, cutting Downed wood, or cutting Live tree(s), and all gathering rights reserved by the Treaty of Point No Point (1855);

- H. “Harvesting” means any effort to pick, harvest or otherwise collect any upland, freshwater, or brackish water plant, forb, grass, shrub, fungi (including mushrooms), moss, lichen, driftwood, tree or any part thereof; this does not include marine seaweeds, kelps and seagrasses, Downed wood, Live trees, or species on the Species Prohibited for Gathering list, which is included as part of each Regulation promulgated under this Title. It also includes collecting parts of animals that were naturally shed, or from deceased animals not killed by the gatherer, including but not limited to shed antlers, dead heads, bones, and feathers;
- I. "Jamestown S'Klallam Tribal citizen, “citizen” or "Tribal citizen" means an enrolled citizen of the Jamestown S'Klallam Tribe;
- J. “Live tree” means any living and standing tree, of any height;
- K. “Live tree over 14’ tall” means any living and standing tree over 14’ tall from the ground to the top of the tree;
- L. “Live tree under 14’ tall” means any living and standing tree under 14’ tall from the ground to the top of the tree;
- M. “Minor” means any Tribal citizen who is under the age of eighteen (18);
- N. "Open Season" means those times, manners of taking and area established by a Gathering Regulation for lawful Gathering. "Open Season" includes the first and last days of the established time, unless otherwise specified;
- O. "Regulation" means any rule or regulation adopted by the Tribal Council pursuant to this Title; any such regulation or rule, during the period they are in effect, shall have the force of law equal to the other provisions of this Title;
- P. "Revocation of Gathering Privileges" means the recall of all rights and privileges granted to a Tribal citizen pursuant to this Title and the loss of eligibility to apply for a Jamestown S'Klallam Downed wood cutting, or Live tree cutting Tag, for the duration specified by this Title;
- Q. “Subsistence” means for personal use by citizens and their immediate families and for sharing, trading or bartering with other citizens. Subsistence collection is exclusive of any commercial or ceremonial purposes;
- R. "Tribal Council” or “Council" means the Jamestown S'Klallam Tribal Council; and
- S. "Tribe" means the Jamestown S'Klallam Tribe, a federally recognized Indian tribe.

Section 42.01.05 Jurisdiction

The provisions of this Title, and all rules and Regulations promulgate under it, shall apply to the full extent of the sovereign jurisdiction of the Tribe and within all open and unclaimed lands and usual and accustomed grounds and stations, as provided for in the Treaty of Point No Point of 1855. All references herein to the applicability of this Title include, in those references, any rules or Regulations that are in effect at a given point in time.

Section 42.01.06 Applicability of this Title

The provisions of this Title shall apply to all Tribal citizens purporting to exercise treaty Gathering rights secured to the Tribe by the Treaty of Point No Point, or other applicable treaties or agreements.

Section 42.01.07 Violation of 18 U.S.C. § 1165

Any person who purports to exercise Gathering rights in violation of the provisions of this Title shall be deemed to be doing so without lawful authority or permission, as those terms are used in 18 U.S.C. §1165.

Section 42.01.08 Reporting Requirements

Each Tribal citizen exercising Gathering rights under the provisions of this Title shall report their activities in accordance with the requirements set out in this Title and any Regulations in effect when they are exercising those rights.

- A. All citizens cutting Downed wood or a Live tree over 14' shall obtain, and have on their person or in their vehicle while cutting wood or live tree(s), a semi-annual Tribal Wood -Subsistence Harvest 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 wood cutter along with the data recorded on them. Each 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 card be lost or otherwise not returned by the due date for a given 6- month term, a card may not be issued to that individual for the subsequent 6-month term, and;

- B. Before leaving the site where Downed wood or a Live tree over 14' tall was harvested, the appropriate tag(s) must be filled out completely.

Chapter 42.02
Adoption of Gathering Regulations

Sections:

Section 42.02.01 Standard Regulations

Section 42.02.02 Emergency Regulations

Section 42.02.01 Standard Regulations

The Natural Resources Committee shall propose standard Regulations regarding Gathering activities. These Regulations, among other things, may address Gathering methods and practices that are considered “best practices” for achieving sustainability of the target resources by the Natural Resources Committee.

The general procedure will be as follows:

- A. At least once each year, the Natural Resources Committee shall formulate and recommend to the Tribal Council any standard Regulations which are necessary to carry out the purpose of this Title. The Regulations shall be structured so as to protect the target resources and provide for their wise harvest within the Tribe's jurisdiction;
- B. Before proposing standard Regulations as provided in this section, the Natural Resources Committee shall make an effort to get all available information on the status of the target resources within the Tribe's jurisdiction by consulting with appropriate personnel within the relevant federal and Washington State agencies, as well as with the Tribe's technical staff and the technical staff of other tribes in the region;
- C. No later than thirty (30) days after it receives recommended Regulations from the Committee, the Tribal Council shall approve and adopt the Regulations or refer the proposed Regulations back to the Committee with suggestions for changes. If the Tribal Council does not act on the Committee's recommendations within thirty (30) days, the Committee's proposed Regulations shall be considered approved by the Council and shall take effect immediately or according to their terms; and
- D. All standard Gathering Regulations, once adopted, must be made available at the Tribal government offices, at 1033 Old Blyn Highway, Sequim, WA 98382, and must indicate the date they were adopted. Additionally, such standard Regulations will be posted on the Tribe's web site and a copy (paper or electronic) will be provided to any Tribal citizen who requests a copy.

Section 42.02.02 Emergency Regulations

The procedure for adoption of Emergency Regulations under this Title shall be as follows:

- A. The Natural Resources Committee may enact emergency changes in previously adopted standard Regulations whenever it gets information which indicates that the changes are necessary for proper management of the target resources in areas under Tribal jurisdiction;
- B. Emergency Regulations shall take effect as soon as they are adopted or issued, or at such other time as may be specified in the emergency Regulations. They shall remain in effect until: 1) they are withdrawn by the Natural Resources Committee, or 2) they lapse by their own terms, or 3) until the Tribal Council withdraws them; and
- C. All emergency Regulations must be made available at the Tribal government offices, at 1033 Old Blyn Highway, Sequim, WA 98382, and must indicate the date they were adopted. As possible, citizens exercising their rights under this Title will be notified of any changes via email or text message. No penalty shall be imposed for violation of an emergency Regulations unless twenty-four (24) hours have passed since the Regulation was issued or unless the violator was personally provided with a notice of the Regulation before the violation occurred.

Chapter 42.03
General Closures and Specific Closures

Sections:

Section 42.03.01 Open and Unclaimed Lands Open to Gathering

Section 42.03.02 Downed Wood Closure

Section 42.03.03 Live Tree Closure

Section 42.03.04 Closure due to Elevated Fire Danger

Section 42.03.01 Open and Unclaimed Lands Open to Gathering

All open and unclaimed lands within the Tribe's jurisdiction are open to Gathering by Tribal citizens unless those areas have been specifically closed by a Regulation adopted pursuant to this Title.

Section 42.03.02 Downed Wood Closure

The collection of Downed wood is prohibited to Tribal citizens in all areas within the Tribe's jurisdiction unless those areas have been specifically opened by a Regulation adopted pursuant to this Title.

Section 42.03.03 Live Tree Closure

The cutting of Live trees is prohibited to Tribal citizens in all areas within the Tribe's jurisdiction unless those areas have been specifically opened by a Regulation adopted pursuant to this Title. The Regulation may permit cutting of Live trees up to 14' height without a special permit. To cut any Live tree greater than 14' tall, a Tribal citizen must have a dedicated permit/tag for that activity.

Section 42.03.04 Closure due to Elevated Fire Danger

Gathering is prohibited within any area closed to public access due to extreme fire danger, as determined by the Tribe, the federal government, or the State of Washington. Restrictions on specific activities due to fire danger, such as restrictions on cutting wood during midday hours, apply.

Chapter 42.04 Eligible Gatherers

Sections:

Section 42.04.01 Eligibility for Gathering

Section 42.04.02 Gathering by Minors who are Tribal Citizens

Section 42.04.03 Assistance by Non-Citizen Spouses of Citizens

Section 42.04.04 Assistance by Non-Citizen Relatives

Section 42.04.01 Eligibility for Gathering

Only Tribal citizens may exercise treaty Gathering rights under the authority of this Title.

Section 42.04.02 Gathering by Minors who are Tribal Citizens

Gathering by Tribal citizens who are Minors may be done as follows:

- A. Tribal citizens under the age of eighteen (18) may exercise their rights under the provisions of this Title provided that they, or an eligible Tribal citizen who is eighteen (18) years old or older, have agreed to fulfill the reporting requirements set forth in this Title and any Regulation issued under it;
- B. It is the duty of the parent or guardian of any minor who exercises their Gathering rights to ensure the minor's compliance with this Title. No minor shall be granted the right to cut Downed wood or Live tree(s) without the signed consent of their parent or guardian, except that a minor under direct supervision of a parent or guardian does not need signed consent. Minors are subject to the same limits and requirements as adults; and
- C. This restriction does not apply if the citizen Minor is considered a Citizen Minor as Head of Household.

Section 42.04.03 Assistance by Non-Citizen Spouses of Citizens

Non-citizen spouses of citizens may assist citizens as follows:

- A. The non-citizen spouse of a citizen has no right to exercise Gathering rights of the Tribe. The privilege to be assisted by their non-citizen spouse belongs to the Tribal citizen;
- B. A citizen may be assisted by their non-citizen spouse so long as they are married to each other and are not legally separated. The citizen spouse must be immediately present during any Gathering activity;
- C. A non-citizen spouse who is eligible to assist shall obtain the appropriate Tribal identification card and have it on their person during any Gathering activity;
- D. Citizens are responsible for the conduct of their non-citizen spouses in Gathering related activities. Violations by a non-citizen spouse of this Title or Regulations promulgated under it shall subject the citizen spouse to citation to the Tribal Court in the place of the non-citizen spouse; and
- E. For purposes of this section, the term "assist" shall be defined to include any normal Gathering activities permitted by this Title.

Section 42.04.04 Assistance by Non-Citizen Relatives

Tribal citizens may be assisted by non-citizen relatives consisting of the Tribal citizen's forebearers, children, siblings, or grandchildren as follows:

- A. The non-citizen relative of a citizen has no right to exercise Gathering rights of the Tribe. The privilege to be assisted by their non-citizen relative belongs to the Tribal citizen;
- B. A citizen may be assisted by their non-citizen relative so long as they are direct blood relatives. The Tribal citizen must be immediately present during any Gathering activity;

- C. A non-citizen relative who is eligible to assist shall obtain the appropriate Tribal identification card and have it on their person during Gathering activities;
- D. Citizens are responsible for the conduct of their non-citizen relatives in Gathering activities. Violations, by non-citizen relatives, of this Title or Regulations promulgated under it, shall subject the Tribal citizen to citation to the Tribal Court in the place of the non-citizen relative; and
- E. For purposes of this section, the term "assist" shall be defined to include any normal Gathering activities permitted by this Title.

Chapter 42.05

Gathering for Ceremonial Use

Sections:

Section 42.05.01 Harvesting for Ceremonial Use

Section 42.05.02 Cutting Downed Wood for Ceremonial Use

Section 42.05.03 Cutting Live Trees for Ceremonial Use

Section 42.05.04 Designated Gatherer for Ceremonial Use

Section 42.05.01 Harvesting for Ceremonial Use

The Tribal Council, on its own initiative or on the recommendation of the Natural Resources Committee, may grant Harvesting rights, under this Title, to a Tribal citizen for ceremonial uses. If tags are required, the tags will be marked as Ceremonial. Ceremonial Harvesting will be subject to the language of the tags and may allow for activities that are otherwise restricted by an issued standard Regulations.

Section 42.05.02 Cutting Downed Wood for Ceremonial Use

The Tribal Council, on its own initiative or on the recommendation of the Natural Resources Committee, may permit a Tribal citizen to cut Downed wood for ceremonial uses. The tags will be marked as "Ceremonial". As approved by the Tribal Council, restrictions within the Regulations may be disregarded while filling a Ceremonial tag.

Section 42.05.03 Cutting Live Trees for Ceremonial Use

The Tribal Council, on its own initiative or on the recommendation of the Natural Resources Committee, may grant to a Tribal citizen the right to cut Live tree(s) of any height for ceremonial uses. If tags are required, the tags will be marked as "Ceremonial". As approved by the Tribal Council, restrictions within the Regulations may be disregarded while filling a Ceremonial tag.

Section 42.05.04 Designated Gatherer for Ceremonial Use

Any citizen or non-Citizen staff may be appointed a "designated gatherer" for Ceremonial Use by the Tribal Council, on its own initiative or on the recommendation of the Culture Committee, the Natural Resources Committee, or the CEO of the Tribe. When designated under Section 42.05.01, 42.05.02 or 42.05.03 of this Title, the designated gatherer(s) shall receive any necessary tag(s). The designated gatherer(s) shall comply with the terms of the Gathering request.

Chapter 42.06 Gathering for Other Citizens

Sections:

Section 42.06.01 Harvesting for Another Citizen

Section 42.06.02 Cutting Downed Wood for Another Citizen

Section 42.06.03 Cutting Live Trees for Another Citizen

Section 42.06.01 Harvesting for Another Citizen

It shall be lawful for Tribal citizens to Harvest for other Tribal citizens who are unable to exercise those rights because of physical limitations or general incapacity. The assisting Tribal citizen, under such conditions, will be subject to the applicable laws and Regulations of the Tribe.

Section 42.06.02 Cutting Downed Wood for Another Citizen

It shall be lawful for Tribal citizens to exercise treaty rights to cut Downed wood for other Tribal citizens who are unable to exercise those rights because of physical limitations or general incapacity. The assisting Tribal citizen, under such conditions, will be subject to the applicable laws and Regulations of the Tribe.

Each transferred wood cutting tag shall be marked to identify it as a “Transfer” tag. The original recipient of the tag shall be named as the recipient of the tag, and the wood cutter will legibly write their name on the tag. The cut wood will count towards the annual limit of the recipient only.

Section 42.06.03 Cutting Live Trees for Another Citizen

It shall be lawful for Tribal citizens to exercise treaty rights to cut down Live tree(s) for other Tribal citizens who are unable to exercise those rights because of physical limitations or general incapacity. The assisting Tribal citizen, under such conditions, will be subject to the applicable laws and Regulations of the Tribe.

If a Live tree is over 14’ tall, each transferred live tree cutting tag shall be marked to identify it as a “Transfer” tag. The original recipient of the tag shall be named as the recipient of the tag, and the cutter will legibly write their name on the tag.

Chapter 42.07

Gathering with Non-Citizens

Sections:

Section 42.07.01 Harvesting with a Non-Citizen

Section 42.07.02 Cutting Downed Wood with a Non-Citizen

Section 42.07.03 Cutting Live Trees with a Non-Citizen

Section 42.07.01 Harvesting with a Non-Citizen

It shall be lawful for Tribal citizens to Harvest with non-citizens who are harvesting under Washington State law or another tribe's law, provided that the non-citizen is: 1) appropriately licensed by the State or another tribe with overlapping harvesting area, and 2) the harvesting is done according to current WA State or another tribe's laws and Regulations.

Section 42.07.02 Cutting Downed Wood with a Non-Citizen

It shall be lawful for Tribal citizens to cut Downed wood with non-citizens who are participating under Washington State law or another tribe's law, provided that the non-citizen is: 1) appropriately licensed by the State or another tribe with overlapping wood cutting area, and 2) cutting wood according to current WA state or another tribe's laws and Regulations.

Section 42.07.03 Cutting Live Trees with a Non-Citizen

It shall be lawful for Tribal citizens to cut Live tree(s) with non-citizens who are participating under Washington State law or another tribe's law, provided that the non-citizen is: 1) appropriately licensed by the State or another tribe with overlapping Live tree cutting area, and 2) cutting tree(s) according to current WA state or another tribe's laws and Regulations.

Chapter 42.08 General Offenses

Sections:

Section 42.08.01 Introduction

Section 42.08.02 Required Tribal Permits

Section 42.08.03 Harvesting Without Proper Identification or Permit in Possession

Section 42.08.04 Cutting Downed Wood or Live Trees Over 14' Without Proper Identification or Permit in Possession

Section 42.08.05 Gathering During a Fire Closure

Section 42.08.06 Gathering Prohibited Species

Section 42.08.07 Gathering in a Closed Area

Section 42.08.08 Harvesting In a Sustainable Manner

Section 42.08.09 Failure to Report Gathering Activities

Section 42.08.10 Transporting Downed Wood or Harvested Live Trees Without a Permit

Section 42.08.11 Cutting Downed Wood or Live Trees While Intoxicated

Section 42.08.12 Commercial Sale

Section 42.08.13 Permit Conditions for Cutting Live Trees

Section 42.08.14 Obstructing Enforcement Officers

Section 42.08.15 Aiding and Abetting

Section 42.08.16 Gathering While Privilege Is Revoked

Section 42.08.17 Unauthorized Transfer of Identification or Permit

Section 42.08.18 Unauthorized Assistance

Section 42.08.19 Violation of Regulations and Permits

Section 42.08.20 Failure to Produce Identification, or Permits to Enforcement Officers

Section 42.08.21 Giving False Information to an Enforcement Officer

Section 42.08.22 Failure to Return Gate Keys and Other Equipment

Section 42.08.23 Failure to Appear and Respond

Section 42.08.01 Introduction

This chapter sets out, among other things, those Gathering activities which are prohibited by this Title. All Gathering activities by Tribal citizens, including those assisting citizens, within the jurisdiction of the Tribe are subject to the provisions of this chapter.

Section 42.08.02 Required Tribal Permits

Tribal Permits are not required for Gathering, except, as required by the annual Regulations, and when Gathering some species on-reservation. Permits are required for cutting Downed wood and Live tree(s) over 14' tall.

Section 42.08.03 Harvesting Without Proper Identification or Permit in Possession

Any Tribal citizen who exercises, or purports to Harvest without having in their possession a proper Tribal identification and, if required by a Regulation adopted pursuant to this Title, a current Permit/Tag is guilty of an offense and, upon conviction, shall be sentenced to a minimum fine of one hundred dollars (\$100.00).

Section 42.08.04 Cutting Downed Wood or Live Trees Over 14' Without Proper Identification or Permit in Possession

Any Tribal citizen who cuts Downed wood or Live tree(s) over 14' tall without identification and permits/tags, as required by this Title, or by Regulation, is guilty of an offense and, upon conviction, shall be sentenced to a minimum fine of two hundred fifty dollars (\$250.00) and may have their Gathering privileges revoked for one (1) calendar year from the date of sentencing.

Section 42.08.05 Gathering During a Fire Closure

Any Tribal citizen who gathers in violation of a fire closure, as established by this Title or Regulations issued under it, is guilty of an offense and, upon conviction, shall be sentenced to a minimum fine of five hundred dollars (\$500.00) and may have their related Gathering privileges revoked for one (1) calendar year from the date of sentencing.

Section 42.08.06 Gathering Prohibited Species

It is unlawful to gather any species on the “Species Prohibited for Gathering” list that accompanies the annual Regulations without a specific authorization to do so. Any Tribal citizen who gathers or cuts down a prohibited species is guilty of an offense and, upon conviction, shall be sentenced to a minimum fine of two hundred and fifty dollars (\$250.00) and may have their Gathering privileges revoked for one (1) calendar year from the date of sentencing. It is the responsibility of each citizen gatherer, and anyone legally assisting the citizen, to know whether any species intended for Gathering is listed as prohibited.

Section 42.08.07 Gathering in a Closed Area

Any Tribal citizen who gathers within the boundaries of an area closed to Gathering, as designated by this Title or Regulations issued under it, is guilty of an offense and, upon conviction, shall be sentenced to a minimum fine of five hundred dollars (\$500.00) and may have their Gathering privileges revoked for one (1) calendar year from the date of sentencing.

Section 42.08.08 Harvesting in a Sustainable Manner

Tribal citizens shall exercise their Harvesting rights in a sustainable manner. Any Tribal citizen who fails to Harvest in a sustainable manner is guilty of an offense and, upon conviction, shall be sentenced to a minimum fine of one hundred dollars (\$100) and may have their Gathering privileges revoked for one (1) calendar year from the date of sentencing.

Section 42.08.09 Failure to Report Gathering Activities

Failure of a Tribal citizen to comply with the provisions of this Title regarding the reporting of gathered items is an offense and, upon conviction, the citizen shall be sentenced to a minimum fine of two hundred and fifty dollars (\$250.00) and may have their Gathering privileges revoked for one (1) calendar year from the date of sentencing.

Section 42.08.10 Transporting Downed Wood or Harvested Live Trees Without a Permit

Any Tribal citizen who transports Downed wood or harvests Live tree(s) over 14’ tall, without a valid permit, is guilty of an offense and, upon conviction, shall be sentenced to a minimum fine of five hundred dollars (\$500.00) and may have their Gathering privileges revoked for one (1) calendar year from the date of sentencing.

Section 42.08.11 Cutting Downed Wood or Live Trees While Intoxicated

Any Tribal citizen who cuts Downed wood or Live tree(s) while intoxicated (under the influence of alcohol or illegal drugs) is guilty of an offense and, upon conviction, shall be sentenced to a minimum fine of two hundred fifty dollars (\$250.00) and may have their Gathering privileges revoked for one (1) calendar year from the date of sentencing.

Section 42.08.12 Commercial Sale

Any Tribal citizen who sells gathered items, cut wood/timber, or cut Live tree(s) is guilty of an offense and, upon conviction, shall be sentenced to a minimum fine of between five hundred dollars (\$500.00) up to ten thousand dollars (\$10,000.00), in the discretion of the Tribal Court, and may have their Gathering privileges revoked for one (1) calendar year, or longer, from the date of sentencing.

Section 42.08.13 Permit Conditions for Cutting Live Trees

Any Tribal citizen who fails to comply with any restriction(s) while cutting Live tree(s) over 14’ tall is guilty of an offense and, upon conviction, shall be sentenced to a minimum fine of five hundred dollars (\$500) and may have their Gathering privileges revoked for one (1) calendar year from the date of sentencing.

Section 42.08.14 Obstructing Enforcement Officers

Any Tribal citizen who resists or obstructs any duly authorized Enforcement Officer in the discharge their duties under this Title, or Regulations issued under it, is guilty of an offense and, upon conviction, shall be sentenced to a minimum fine of one thousand dollars (\$1,000.00) and may have their Gathering privileges revoked for one (1) calendar year from the date of sentencing.

Section 42.08.15 Aiding and Abetting

Any Tribal citizen who knowingly aids and abets another Tribal citizen to engage in conduct which is unlawful under this Title, or Regulation issued under it, is guilty of an offense and, upon conviction, shall be sentenced to the

same degree as if they had committed the primary offense and may have their Gathering privileges revoked for one (1) calendar year from the date of sentencing.

Section 42.08.16 Gathering While Privilege Is Revoked

Any Tribal citizen who engages in Gathering while their Gathering privileges have been revoked or suspended is guilty of an offense and, upon conviction, shall be sentenced to a minimum fine of five hundred dollars (\$500.00) and a minimum of fourteen (14) days in jail and shall have their Gathering privileges revoked for two (2) calendars years from the date of sentencing.

Section 42.08.17 Unauthorized Transfer of Identification or Permit

Any Tribal citizen who transfers any identification or permit issued to them under this Title, or applicable Regulations, to another person for the purpose of allowing the transferee to engage in illegal Gathering, and any Tribal citizen who uses any identification or permit issued to another Tribal citizen under this Title, or applicable Regulation, is guilty of an offense and, upon conviction, shall be sentenced to a minimum fine of one hundred dollars (\$100.00) and may have their Gathering privileges revoked for one (1) calendar year from the date of sentencing.

Section 42.08.18 Unauthorized Assistance

Any Tribal citizen purporting to exercise their treaty Gathering rights while assisting a non-citizen in the exercise of the non-citizen's gathering activities under Washington State or federal law shall be guilty of a violation of the provisions of this Title and, upon conviction, shall be sentenced to a minimum fine of one hundred dollars (\$100.00) and may have their Gathering privileges revoked for one (1) calendar year from the date of sentencing.

Section 42.08.19 Violation of Regulations and Permits

Any Tribal citizen who fails to comply with any substantive provision of this Title, any Regulation issued pursuant to this Title, or the terms or conditions stated on any 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 an offense. Upon conviction, the citizen shall be sentenced to a minimum fine of one hundred dollars (\$100.00) and may have their Gathering privileges revoked for one (1) calendar year from the date of sentencing.

Section 42.08.20 Failure to Produce Identification, or Permits to Enforcement Officers

Any Tribal citizen who fails to produce for examination their identification card or permits, as required by this Title, upon demand by any Tribal, Treaty Council, state, or federal enforcement officer, is guilty of an offense, and upon conviction shall be sentenced to a minimum fine of one hundred dollars (\$100.00) and may have their Gathering privileges revoked for one (1) calendar year from the date of sentencing.

Section 42.08.21 Giving False Information to an Enforcement Officer

Any Tribal citizen who knowingly gives false information to an Enforcement Officer is guilty of an offense, and upon conviction shall be sentenced to a minimum fine of five hundred dollars (\$500.00) and may have their Gathering privileges revoked for one (1) calendar year from the date of sentencing).

Section 42.08.22 Failure to Return Gate Keys and Other Equipment

Any Tribal citizen who is issued a gate key or other equipment from the Tribe and fails to return such gate key or equipment in a timely manner or violates the terms of any agreement or Regulation regarding the use of such gate key or equipment, is guilty of an offense and, upon conviction, may be sentenced to a minimum fine of twenty five dollars (\$25.00) and a maximum fine of up to two hundred and fifty dollar (\$250.00). In addition to a fine, the violator may be ordered to: 1) return, or 2) pay the cost of replacing lost or damaged gate keys or equipment. Repeated violation of this section may result in the revocation of access privileges to gate keys or other equipment for up to one (1) year.

Section 42.08.23 Failure to Appear and Respond

Any Tribal citizen who fails to appear and respond, as required by a civil or criminal citation, summons, subpoena or notice of hearing issued under this Title, is guilty of an offense, and upon conviction shall be sentenced to a minimum fine of one thousand dollars (\$1,000.00) and may have their Gathering privileges revoked for one (1) calendar year from the date of sentencing.

Chapter 42.09
Penalties and Sentencing

Sections:

Section 42.09.01 Penalties and Sentencing

Section 42.09.02 Repeat Offenders

Section 42.09.01 Penalties and Sentencing

Sentences listed for each offense herein apply to convictions for the first violation of this Title. The Tribal Court shall not suspend or reduce any minimum sentence under this Title. Gatherers convicted of violations under this Title shall have their Gathering privileges revoked until all court fines and sentences are fully satisfied.

Section 42.09.02 Repeat Offenders

Any citizen who is convicted of a second or subsequent violation of this Title (whether the same or a different offense) within five (5) years of the first conviction shall be sentenced as follows:

- A. Unless otherwise specified, the sentence shall be a minimum fine in an amount which is twice (2x) the minimum fine for a first violation of that offense;
- B. If the second conviction is for violating any of the General Offenses listed in Section 42.08, above, the sentence shall be the same as subsection A., above, and shall include revocation of all Gathering privileges for no less than one (1) calendar year from the date of sentencing, but such revocation not to exceed three (3) calendar years from the date of sentencing; and
- C. After a third conviction, an offender shall undergo a mandatory review by the Natural Resources Committee and/or Tribal Council to consider temporary or permanent revocation of their Gathering privileges.

Chapter 42.10 Enforcement

Sections:

Section 42.10.01 Enforcement Officers

Section 42.10.02 Cross-Deputization

Section 42.10.03 Arrest

Section 42.10.04 Searches With or Without Warrant

Section 42.10.05 Seizure of Property

Section 42.10.06 Forfeiture Procedures

Section 42.10.07 Return of Non – Perishable Seized Property

Section 42.10.08 Disposition of Property Forfeited

Section 42.10.09 Citation to Tribal Court

Section 42.10.01 Enforcement Officers

The Tribal Council shall appoint one or more persons to serve as Enforcement Officers. Enforcement Officers shall have the authority to enforce the provisions of this Title and all emergency and annual Regulations promulgated hereunder. The Tribal Council may, upon request from an Enforcement Officer, appoint and deputize a person to assist an Enforcement Officer in the performance of their duties.

Section 42.10.02 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 Tribal Enforcement Officers and the Enforcement Officers of those respective jurisdictions.

Section 42.10.03 Arrest

- A. Enforcement Officers shall have the authority to arrest a Tribal citizen purporting to exercise Tribal Gathering rights who is in violation of any substantive provision of this Title, or any Regulation adopted hereunder. No Enforcement Officer shall arrest any such person for a violation of this Title, or the above-mentioned Regulations, except when:
1. The offense occurs in the presence of the Enforcement Officer; or
 2. The Enforcement Officer has probable cause to believe that the citizen being arrested has committed the alleged offense; or
 3. The Enforcement Officer has a warrant signed by a Tribal Court Judge commanding the arrest of the citizen or knows as a certainty that such warrant has been issued.
- B. In those situations where the Enforcement Officer is authorized to make an arrest, the Enforcement Officer may instead, in their reasonable discretion, issue either a written warning or a citation, on a form approved by the Tribe, commanding the alleged violator to appear before the Tribal Court to answer the charges.

Section 42.10.04 Searches With or Without a Warrant

- A. An Enforcement Officer may utilize standard law enforcement procedures to search, without a warrant, any Tribal citizen's gear, vehicle, tent, camper, or any place or premises at or near a Gathering site provided the Enforcement officer has reasonable suspicion to believe that the site contains evidence of violations of this Title or any Regulations promulgated hereunder; and
- 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 evidence of the violation of this Title, or the Regulations promulgated hereunder, by a Tribal citizen is concealed or kept.

Section 42.10.05 Seizure of Property

- A. Upon arrest or upon issuance of a citation, the Enforcement Officer may seize all Tribal citizen property which the Enforcement Officer has reasonable grounds to believe has been taken by the alleged violator

contrary to the provisions of this Title, or any Regulations promulgated hereunder. An Enforcement Officer may, in addition, seize any other Tribal citizen items (excluding the gatherer's vehicle) which the Enforcement Officer has reasonable grounds to believe has been used in the commission of a violation of this Title or any Regulation promulgated hereunder;

- B. An Enforcement Officer who has seized Tribal citizen property or other items pursuant to this section shall prepare a written inventory of all items seized which shall be signed by the Enforcement Officer. When unattended gear and/or its contents are seized, the inventory shall be signed by the Enforcement Officer. In all cases, one copy of the inventory shall be filed with the Tribal Court, one copy returned to the Tribe's Natural Resources office and one copy given to the Tribal citizen; and
- C. All items, other than perishable plants, seized pursuant to this section shall, as soon as practicable, be brought to the Tribal Office or other places designated by the Tribe for the 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 an order of the Tribal Court.

Section 42.10.06 Forfeiture Procedures

- A. When a Tribal citizen has been convicted of violating a provision of this Title, or any Regulation promulgated hereunder, the court may order forfeiture of any items seized in connection with the violation. The convicted citizen shall be given the opportunity to present evidence and argument to the Tribal Court regarding why it would be inequitable to order forfeiture of the seized items;
- B. In all cases where the owner of items seized is unknown, the Tribal Court shall have the power to order the forfeiture of any articles seized;
- C. The Enforcement Officer who makes a seizure shall immediately post, at prominent public locations on the trust and Reservation lands of the Tribe, a dated notice describing the items and the time and place of seizure. The notice shall provide that persons wishing to claim seized articles must do so within ten (10) days after the notice is posted;
- D. If no one claims unmarked articles seized pursuant to this Title within the time limit provided, the Natural Resources Department may dispose of them. Any proceeds from disposition of the seized property shall be turned over to the Tribe; and
- E. If a person does claim ownership of unmarked articles seized by an Enforcement Officer, the Tribal Court shall hold an expedited hearing to determine whether the property shall be returned to the owner, as provided in this Chapter, or be retained and disposed of by the Tribe.

Section 42.10.07 Return of Non – Perishable Seized Property

- A. Any Tribal citizen whose property has been seized under the authority of this Title may apply immediately to the Tribal Court for release of said property if the Court determines that said release is in the best interest of the seized resource. The Tribal Court shall expedite all hearing requests under this section; and
- B. If the Tribal citizen whose property has been seized pursuant to the Title is acquitted or charges against the person are dismissed, the Court shall order immediate return of the property.

Section 42.10.08 Disposition of Property Forfeited

In the event the Tribal Court orders forfeiture of articles seized, the articles shall be turned over to the Natural Resources Department for the use and benefit of the Tribe. Any items or proceeds not forfeited by the order of the Tribal Court shall be returned to the Tribal citizen from whom they were seized, after the completion of the case and after the fines, if any, have been paid.

Section 42.10.09 Citation to Tribal Court

- A. All Tribal citizens charged with a violation of this Title, or Regulation promulgated hereunder, shall be cited to appear and answer said charges before the Tribal Court;

- B. Except in the case of a bail forfeiture, failure to appear in Tribal Court, when cited to do so, shall constitute a separate offense and shall be punishable as any other violation of this Title or the Tribal Code; and
- C. Failure to comply with a Tribal Court order shall constitute a separate offense and shall be punishable as any other violation of this Title or the Tribal Code.

Chapter 42.11
Miscellaneous Provisions

Sections:

Section 42.11.01 Severability

Section 42.11.02 Liberal Construction

Section 42.11.02 Severability

If any provisions of this Title shall be held to be invalid, illegal, or unenforceable, by a court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 42.11.02 Liberal Construction

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

Chapter 42.12

Codification and Amendments

Sections:

Section 42.12.01 Codification

Section 42.12.02 Amendments

Section 42.12.01 Codification

Title 42 Gathering Code was approved and adopted at a Tribal Council meeting held, on October 29, 2025, pursuant to the provisions of the Bylaws of the Council and codified into a new title of the Tribal Code by Resolution #53-2025.

Section 42.12.02 Amendments

Reserved.