

“Disclaimer: The Nooksack Indian Tribe attempts to ensure that the most current version of its laws is published. Interest parties should contact the Tribal Council Offices to verify whether subsequent ordinances and/or resolutions were passed that may affect the validity of those posted herein.”

Title 10

Tribal Court System and Court Rules

TRIBAL COURT SYSTEM AND COURT RULES

TABLE OF CONTENTS

Chapter 10.00	AUTHORITY, PURPOSE AND INTERPRETATION	
10.00.010	Authority	6
10.00.020	Purpose.....	6
10.00.030	Limited Subject Matter/Personal Jurisdiction.....	6
10.00.040	Concurrent Jurisdiction.....	6
10.00.050	Exclusive Original Jurisdiction.....	6
10.00.060	Long-Arm Jurisdiction.....	6
10.00.070	Interpretation of Rules	7
10.00.080	Liberal Interpretation	7
10.00.090	Limitation of Remedies.....	7
10.00.100	Sovereign Immunity.....	8
Chapter 10.01	RULES OF CONSTRUCTION	
10.01.010	Purpose.....	9
10.01.020	General Rules.....	9
Chapter 10.02	RULES GOVERNING ADVOCATES	
10.02.010	Right to be Represented by an Advocate.....	10
10.02.015	Fee for Public Defense.....	10
10.02.020	Obligation of an Advocate	10
10.02.030	Appearance as Advocate.....	11
10.02.040	Procedure For Admission	11
10.02.050	Admission Fee	11
10.02.060	Appeal.....	11
10.02.070	Disbarment and Discipline.....	11
10.02.080	Contempt.....	12
10.02.090	Complaints	12
Chapter 10.03	RULES OF JUDICIAL CONDUCT	
10.03.010	Judges.....	13
10.03.020	Magistrates.....	13
10.03.030	Disqualification.....	13
10.03.040	Ex Parte Communications.....	13
10.03.050	Powers of Judges.....	13
10.03.060	Contacts Outside of Court.....	14
10.03.070	Conflicts of Interest.....	15
10.03.080	Fairness and Diligence.....	15
Chapter 10.04	COURT CLERK/ADMINISTRATIVE RULES	
10.04.010	Clerk.....	16
10.04.020	Court Records	16
10.04.030	Review of Filed Documents.....	17

Chapter 10.05	CIVIL PROCEDURE	
10.05.010	Court Divisions	18
10.05.020	Jurisdiction	18
10.05.030	Court Sessions	19
10.05.040	Pleadings Allowed; Amended and Supplemental Pleadings	20
10.05.050	Filing, Time Limit, and Notice	20
10.05.060	Timing	22
10.05.070	Form of Pleadings	24
10.05.080	Court Behavior	25
10.05.090	Compelling Witnesses to Appear (Subpoena)	25
10.05.100	Costs	26
10.05.110	Contempt of Court	26
10.05.120	Judgments, Generally	27
10.05.130	Default Judgment	27
10.05.140	Summary Judgment	28
10.05.150	Involuntary Dismissal	28
10.05.160	New Trial; Reconsideration; Amendment	29
10.05.170	Action on Judgment	29
Chapter 10.06	ENFORCEMENT OF JUDGMENTS	
10.06.010	Remedies Cumulative	30
10.06.020	Exemptions	30
10.06.030	Claim of Exemption	30
10.06.040	Fraudulent Transfers Voidable	31
10.06.050	Surrender of Property	32
10.06.060	Self Help Remedies and Repossession Prohibited	32
10.06.070	Execution	32
10.06.080	Garnishment	33
10.06.090	Attachment	34
10.06.100	Individual Indian Money Accounts	35
10.06.110	Supplemental Proceedings	35
10.06.120	Sale, Assignment, and Transfer of Judgments	35
10.06.130	Discharge	35
10.06.140	Debts Owed to the Tribe	35
Chapter 10.07	RULES OF EVIDENCE	
10.07.010	Purpose	37
10.07.020	General Rules	37
10.07.030	Self-Incrimination	37
10.07.040	Written Testimony and Documentary Evidence	38
Chapter 10.08	RULES OF CRIMINAL PROCEDURE	
10.08.010	Scope	39
10.08.020	Subject Matter Jurisdiction	39
10.08.030	Statute of Limitation	39
10.08.040	Searches Without Warrants	39

10.08.050	Search Warrants	40
10.08.060	Complaint.....	41
10.08.070	Citation Instead of Arrest.....	41
10.08.080	Arrest Without Warrant	42
10.08.090	Issuance of Summons	42
10.08.100	Issuance of Arrest Warrant	43
10.08.110	Failure of Service.....	43
10.08.120	Notification of Rights and Arrest.....	43
10.08.130	Amendment of the Complaint.....	44
10.08.140	Procedure on Failure to Obey Citation and Notice	44
10.08.150	Probable Cause Determination	44
10.08.160	Arraignment	44
10.08.170	Pleas	45
10.08.180	Withdrawal of Guilty Plea	45
10.08.190	Bail.....	46
10.08.200	Pretrial Conference	46
10.08.210	Pre-trial Motions	47
10.08.220	Testing for HIV.....	47
10.08.230	Affidavit of Prejudice	47
10.08.240	Time of Trial	48
10.08.250	Joining or Separating Defendant’s Trials	48
10.08.260	Discovery	48
10.08.270	Order of Trial	49
10.08.280	Burden of Proof.....	50
10.08.290	Presence of Defendant	50
10.08.300	Jury Trials	50
10.08.310	Verdict.....	51
10.08.320	Sentencing.....	52
10.08.330	Motion for New Trial.....	52
10.08.340	Right to Appeal	53
Chapter 10.09	WRIT OF HABEAS CORPUS	
10.09.010	Who May Prosecute Writ.....	54
10.09.020	Application for Writ.....	54
10.09.030	Issuance of Writ	54
10.09.040	Content of Writ	54
10.09.050	What to Contain	55
10.09.060	Hearing on Return.....	55
10.09.070	Judgment	55
Chapter 10.10	ENFORCEMENT OF FOREIGN JUDGMENTS	
10.10.010	Washington Court Judgments	57
10.10.020	Tribal Court Judgments.....	57
10.10.030	All Other Courts.....	57
10.10.040	Application of Full Faith and Credit to Final and Conclusive Judgments	57

10.10.050	Registration of Foreign Judgment.....	57
10.10.060	Notice of Registration of Foreign Judgment.....	58
10.10.070	Objections; Hearing; Entry of Order Where Objections.....	59
10.10.080	Entry of Order Where no Objections.....	59
10.10.090	Not Enforceable or Non-recognizable Foreign Judgment.....	59
10.10.100	Appeal; Stay of Execution; Stay of Proceedings.....	60
10.10.110	Post-judgment Proceedings Regarding Foreign Judgment; No Waiver of Immunity.....	60
10.10.120	Child Support Orders.....	60
Chapter 10.11 NAME CHANGES		
10.11.010	Petition for Name Change.....	61
10.11.020	Petition on Behalf of Minors.....	61
10.11.030	Filing Fee.....	61
10.11.040	Notice of Hearing.....	61
10.11.050	Sealing Records.....	62
10.11.060	Hearing.....	62
10.11.070	Order Following Hearing.....	62
10.11.080	Notice of Order.....	62
10.11.090	Other Proceedings.....	62
10.11.100	Forms.....	62
Chapter 10.12 CIVIL FORFEITURE		
10.12.010	Applicability and General Provisions.....	63
10.10.020	Subject Property.....	63
10.12.030	Custody of Nooksack Tribe.....	64
10.12.040	Summary Forfeiture.....	64
10.12.050	Non Summary Forfeiture.....	65
10.12.060	Additional Authority of the Court.....	69
10.12.070	Release of Seized Property.....	69
10.12.080	Frivolous Claims.....	71
10.12.090	Motion to Set Aside.....	71
10.12.100	Disposition of Forfeited Property.....	72
10.12.110	Vesting of Title.....	72
10.12.120	Stay of Civil Forfeiture Proceedings.....	73
Chapter 10.13 SEVERABILITY, AMENDMENTS, PRIOR ENACTMENTS, AND EFFECTIVE DATE		
10.13.010	Severability.....	75
10.13.020	Amendments.....	75
10.13.030	Effect on Prior Enactments.....	75
10.13.040	Effective Date.....	75
LEGISLATIVE HISTORY.....		75
CERTIFICATION.....		76

CHAPTER 00
AUTHORITY, PURPOSE, AND INTERPRETATION

- 10.00.010 Authority: The Tribal Council, under the authority of Article VI, Section 1(h) and (j) and Section 2(a) of the Nooksack Tribal Constitution, enacts this Title 10 - Tribal Court System and Court Rules.
- 10.00.020 Purpose: The purpose of this Title is to provide for a system of criminal justice and the resolution of civil disputes for the Nooksack Indian Tribe, and all persons, property and resources subject to its jurisdiction; to safeguard individual rights; and to secure rights and powers inherent in the Nooksack Indian Tribe's sovereign status, guaranteed to the Tribe by treaty and by the laws of the United States.
- 10.00.030 Limited Subject Matter/Personal Jurisdiction: The court shall have subject matter and personal jurisdiction over civil and criminal matters specifically enumerated in the Nooksack Tribal Code of Laws.
- 10.00.040 Concurrent Jurisdiction: The jurisdiction involved by this Title over any person, cause of action, or subject shall be concurrent with any valid jurisdiction over the same of the courts of the United States, any state, or any political subdivision thereof; provided, however, this Title does not recognize, grant, or cede jurisdiction to any political or governmental entity in which jurisdiction does not otherwise exist in law.
- 10.00.050 Exclusive Original Jurisdiction: The court shall have exclusive original jurisdiction in all matters in which the Nooksack Indian Tribe or its officers or employees are parties in their official capacities. Nothing contained in the preceding sentence or elsewhere in this Title shall be construed as a waiver of the sovereign immunity of the Tribe or its officers or enterprises unless specifically denominated as such and the court is expressly prohibited from exercising jurisdiction over the Nooksack Indian Tribe or its officers or employees named in their official capacities without an express waiver of sovereign immunity.
- 10.00.060 Long-arm jurisdiction: It has been and continues to be the intent of the Nooksack Indian Tribe that the tribal court exercise long-arm jurisdiction to the extent consistent with the due process protections provided by the Constitution and Bylaws of the Nooksack Indian Tribe. Unless prohibited by federal law, a person, including any legal entity, who is a member or non-member of the Tribe residing outside the Tribe's territorial jurisdiction and/or not present within such territory, submits to the jurisdiction of the tribal court by doing any of the following acts:
- (a) Transacting any business within tribal territory including but not limited to contracts to supply services or tangible items within the reservation or off-reservation trust lands and conveying any interest in property located within such tribal territory;

- (b) Committing any tortuous act within the reservation or other tribal territory;
- (c) Owning, using, possessing or having an interest in any property, whether real or personal, situated within tribal territory;
- (d) Contracting to insure any person, property or risk located within the reservation or other tribal territory at the time of contracting;
- (e) Living in a marital relationship subject to the tribe's jurisdiction, notwithstanding subsequent departure from tribal territory, so long as one party to the marriage continues to reside within tribal territory;
- (f) Being the parent, custodian, or other person with a legal interest in an Indian child.
- (g) Accepting a privilege from the tribe, or entering a consensual relationship or commercial transaction with a member.

Where jurisdiction is based on an act listed in this section, the Nooksack Tribal Court may exercise personal jurisdiction over the person who performs any of the enumerated act(s), directly, or by an agent, as to any cause of action under Tribal law arising from such act. If the individual commits such an act, the court's jurisdiction over the person also extends to his or her personal advocate.

- 10.00.070 Interpretation of Rules: These rules shall be interpreted in the light of and supplemented by the traditions, customs and common understanding of the members of the Nooksack Tribe, but when such “custom law” is in conflict with provisions in the Tribal Code, the Tribal Code shall apply.
- 10.00.080 Liberal Interpretation: These rules shall be liberally interpreted and applied to achieve the following purposes: reveal the truth, treat all parties fairly and without prejudice, secure simplicity in proceedings, and protect individual rights guaranteed by the Constitution and Bylaws of the Nooksack Indian Tribe, and encourage the application of traditions and customs of the Nooksack Indian Tribe.
- 10.00.090 Limitation of Remedies: When the Nooksack Indian Tribe, as a party, has consented to the jurisdiction of the court, any waiver of sovereign immunity shall be limited in scope; and, any order by the Tribal Court that is adverse to the Tribe, or its officers or employees named in their official capacity, shall be subject to the following provisions::
- (a) No order or judgment shall issue, which requires or involves the expenditure of Tribal funds, without the Nooksack Indian Tribe’s consent.
 - (b) No emergency, temporary, or preliminary restraining order (or other injunctive relief) shall issue, which restrains or otherwise enjoins the

Nooksack Indian Tribe or its officers, employees or agents from taking any action.

- (c) No relief may be awarded against the Nooksack Indian Tribe or its officers, employees or agents without actual notice to the defendant(s), nor prior to the expiration of time provided for answering complaints or orders to show cause.

10.00.100 Sovereign Immunity: In construing the Title, the sovereign immunity of the Nooksack Indian Tribe shall be enforced to its fullest extent, and nothing in this Title is intended or shall be construed as a waiver of the sovereign immunity of the Nooksack Indian Tribe, its officials, its entities, or employees acting within their official or individual capacities. The court shall have no jurisdiction over any suit brought against the Nooksack Indian Tribe, its officials, its entities, or employees without the consent of the Tribe.

- (a) Nothing contained within this Title, or any other Tribal ordinance, resolution, policy or otherwise shall be deemed to constitute a waiver or renunciation of the sovereign immunity of the Tribe to suit. Such consent or waiver must be expressly made by the Nooksack Tribal Council by majority vote, through passage of an ordinance, by resolution, by entering into a written contract which provides for an express waiver, or by other means adopted by the Nooksack Tribal Council.
- (b) The Nooksack Tribe has not waived its sovereign immunity, nor consented to suit, for claims seeking writs of mandamus against the Chairman of the Nooksack Tribe, nor the members of the Tribal Council.

CHAPTER 1

RULES OF CONSTRUCTION

- 10.01.010 Purpose: The purpose of these rules of construction is to provide guidelines to the court in the interpretation of tribal ordinances, resolutions, regulations and policies in order that the substantive intent of Tribal Council actions shall be accurately reflected in Tribal Court decisions.
- 10.01.020 General Rules: The Tribal Court shall interpret tribal Titles resolutions, regulations, and policies in order that the substantive intent of the Tribal Council is ensured. The court shall not indulge in highly technical or legalistic interpretations of tribal Titles, regulations, and policies when such interpretation would defeat the overall legislative goals of the Tribal Council.

CHAPTER 2 RULES GOVERNING ADVOCATES

- 10.02.010 Right to be Represented by an Advocate: Any person appearing as a party in any civil or criminal action shall have the right to be represented by an advocate of his/her own choice and at his/her own expense; provided, however, that every defendant in a criminal action shall have the right to have an advocate appointed by the Tribal Court at the expense of the Nooksack Indian Tribe; and each parent or legal guardian of a minor child who is the subject of a child dependency proceeding shall have the right to have an advocate appointed by the Tribal Court to represent him or her at the expense of the Nooksack Indian Tribe; provided further, that any such advocate appearing before the Courts of the Nooksack Indian Tribe (or other Tribal administrative forum(s)) shall have first obtained a business license or such other license as may be required, and obtained admission to practice before such Courts in accordance with the procedures set forth herein.
- 10.02.015 Fee for Public Defense: Every defendant in a criminal action who has had an advocate appointed to represent him or her by the Tribal Court at the expense of the Nooksack Indian Tribe shall be liable for a fee of FIFTY DOLLARS AND NO CENTS (\$50.00) upon a finding of guilt by the Tribal Court. The Tribal Court shall have the discretion to waive this fee if it finds by a preponderance of the evidence that the defendant is currently unable to pay the fee without undue hardship. This fee shall not apply to defendants charged as juveniles or who were younger than 18 years old at the time of the offense. Fees owed shall be treated as a debt owing to the Nooksack Indian Tribe and may be collected in the same manner as any other debt to the Tribe. Monies collected shall be entered into the Tribal Court's budget.
- 10.02.020 Obligation of an Advocate:
- (a) Any person appearing as an advocate shall be subject to the same ethical obligations of honesty and confidentiality towards his/her client and the Court as would a professional attorney; the attorney-client testimonial privilege shall apply in appropriate circumstances. All advocates must comply with the Advocate's Code of Conduct as established by Tribal Council. Advocates shall be deemed officers of the Court for purposes of their representation of a party and shall be subject to the disciplinary authority of the Court in all matters relating to their advocate capacity.
 - (b) Due to their status as officers of the Court, professional attorneys have additional responsibilities to the Court and the parties. For that reason, advocates who are professional attorneys ("Attorney-Advocates") are bound by the Advocates Code of Conduct, the Rules of Professional Conduct ("RPCs") for attorneys licensed to practice in the state of Washington, and decisions of Washington courts regarding attorney

discipline while practicing within the jurisdiction of the Nooksack Indian Tribe.

- (c) Any advocate who prepares a pleading for an otherwise pro se litigant must disclose such assistance, including the phrase “Prepared with Assistance of Counsel” on the pleading, and identifying the advocate. Ghostwriting that represents a pleading to be pro se when it is in fact a product of the advocate is a deception on the court and a per se violation of Rule 14 of the Advocates Code of Conduct.

- 10.02.030 Appearance as an Advocate: Any person at least 18 years old who is of good moral character may appear as an advocate in the Nooksack Tribal Court as long as he or she has (1) applied in writing for permission, (2) paid the admission fee, (3) read the Constitution and the Titles of the Nooksack Tribe, and the Rules of the Nooksack Tribal Court, (4) taken an oath to uphold the Constitution and obey by the Titles of the Nooksack Tribe and the Rules of the Nooksack Tribal Court, and (5) been certified by the Court as qualified to appear.
- 10.02.040 Procedure for Admission: Before a person is permitted to appear as an Advocate in the tribal court, he or she shall state before the judge: “I have read and understand the Tribal Constitution, the Tribal Code and the rules of the Tribal Court. I will uphold the Constitution, will obey by the Titles of the Nooksack Tribe and the Rules of the Nooksack Tribal Court, will respect the judges and officers of the Tribal Court, will not raise any claims or defenses which do not appear to be honestly debatable and just and will be truthful at all times.”
- 10.02.050 Admission fee: An admission fee, set by schedule passed by the Nooksack Tribal Council, shall be tendered with the application, subject to return if the application is denied. The fee shall be waived for advocates employed by the tribe and for others, with consent of the court.
- 10.02.060 Appeal: Any person denied admission shall have a right to appeal and have a due process hearing before the Tribal Appellate Court. There shall be a \$50.00 fee for appeals.
- 10.02.070 Disbarment and Discipline:
- (a) Whenever it is made to appear to the Chief Judge that any advocate that has been disbarred or suspended from the practice of law in any other tribe or state, he/she shall immediately be given notice at his/her last known address that he shall be suspended from practice before the Courts of the Nooksack Indian Tribe for an indefinite period unless he/she files a response within ten (10) days and shows good cause why such order should not be made.

- (b) Whenever the Tribal Council becomes aware that any advocate has violated the Advocate's Title of Conduct, or the advocate's behavior and/or practices reflect so poorly upon the proper administration of justice before the Nooksack Tribal Court of the Nooksack Indian Tribe, the Tribal Council may revoke any privileges provided to such person(s) and bar them from further practice in any administrative tribunal before the Nooksack Indian Tribe or proceeding before the Nooksack Tribal Court. Tribal Council may hold such hearings as necessary to ensure that such behavior and/or practices are proven, or, as may be necessary to correct such past behavior and/or practices.

10.02.080 Contempt: Any judge who finds an advocate to be in contempt of court may, in addition to any other sanction imposed, order the advocate to appear and show cause why he/she should not be suspended from practicing in the Courts of the Nooksack Indian Tribe.

10.02.090 Complaints: The court may, upon its own motion, or upon receiving a written complaint which indicates that an advocate has acted in an unethical or otherwise improper manner while functioning as an advocate, order such advocate to appear and defend him/herself at a hearing, to hear all evidence relevant to the matter, and may order the suspension or disbarment of such an advocate if such appears reasonably necessary or appropriate.

CHAPTER 3 RULES OF JUDICIAL CONDUCT

- 10.03.010 Judges: A Chief Judge and associate or Pro Tem judges shall be appointed by the Tribal Council and shall be compensated on a basis determined by the Council. When a tribal court judge is ill, disqualified or otherwise unavailable, the Tribal Council or its delegate shall appoint a temporary judge.
- 10.03.020 Magistrates: In addition to judges, the Tribal Council may appoint magistrates to be on call in order to exercise the powers provided for herein. Magistrates shall have the power to issue search or arrest warrants, receive bail, set the amount of bail where Tribal law or Tribal Court Judge has not set an amount, and set and/or continue trial dates. Magistrates shall exercise these powers when assigned to them by a Tribal Judge or at any time a Tribal Judge is not reasonably available. Any such action of a magistrate shall be subject to review and modification by any judge of the Tribal Court.
- 10.03.030 Disqualification: No judge shall be qualified to act in any case where he or she has an interest, is or has been a material witness, or is related to any party or their advocate as a parent, guardian, grandparent, son, daughter, grandson, granddaughter, aunt, uncle, sister, brother, niece or nephew.
- 10.03.040 Ex Parte Communications: Except as authorized by law, judges may neither initiate nor consider ex parte or other communications concerning a pending or impending proceeding.
- 10.03.050 Powers of Judges:
- (a) The judge(s) shall hear and decide all matters properly filed in the Tribal Court.
 - (b) Whenever the Tribal Court has jurisdiction over a person and subject, the court shall have the power to use reasonable means to protect and carry out its jurisdictions. If the means to enforce its jurisdiction are not spelled out in these rules or in the Tribal Title, the court may use any appropriate procedure that is fair and consistent with the spirit and intent of the tribal law being applied, and with the fullest exercise of the Nooksack Tribe's sovereign immunity.
 - (c) If these rules do not set forth a procedure, the parties and the judge may agree on a procedure or the judge may determine the procedure, which will be followed.
 - (d) As long as a party does not unknowingly waive a right guaranteed by tribal law, the parties and the judge may agree to depart from procedures

established in these rules in order to save time or expense as long as the purpose of these rules and the tribal laws are achieved.

- (e) If not otherwise established by Tribal law, the Chief Judge shall have the power to establish a schedule for filing fees for complaints, petitions, motions and other documents filed with the court, as well as costs and fees for other services provided by the Tribal Court. In no event, shall any such fee or cost be assessed to the Tribe or its departments. Any such schedule, or amendment thereto, shall be provided to the Tribal Council for review. All fee and cost schedules shall be published and made available to any party or other person desiring to file a document.
- (f) A determination of indigency shall be made for all persons wishing the appointment of counsel in criminal and any other case where the right to counsel attaches. The judge shall have the power to determine whether the person is indigent pursuant to the standards set forth by the Tribal Council, and in the absence thereof, according to schedules set forth by the Chief Judge, and to appoint approved advocates to represent the indigent.

10.03.060 Contacts Outside of Court:

- (a) Ex parte communications violate the right of every party to a fair hearing, undermine the reliability of the adversary process, cast doubt on the impartiality of the judge, and undermine the court's institutional legitimacy.
- (b) Except in open court, a judge shall not discuss a case or any judicial business related to a case which the judge is assigned to, with a party in that case, a party's advocate or any person who has an interest in the case, unless all parties are present.
- (c) Unless specifically authorized by a provision within this Title, no party, whether or not that party is represented by an advocate, shall have any ex parte communications with the judge. "Ex parte" means by, for, or on behalf of one party. In addition to in-person contacts, this rule covers communication by telephone, letter, e-mail and any other modes. Copying the other party or the other party's advocate on the communication at the time it is sent does not remove the contact from the prohibitions of this section. An advocate who counsels a party to engage in ex parte contacts with the judge, or engages in ex parte contacts himself or herself, has committed a per se violation of this section and Advocates Code of Conduct Rule 22.
- (d) A judge shall not seek advice or opinions from other persons, including judges and lawyers, regarding the merits of a particular case. A judge

may, however, discuss general principles affecting cases and hypothetical examples with other judges and lawyers.

10.03.070 Conflicts of Interest: A judge should disqualify herself or himself from hearing a case in which a close relative is a party or witness, a case in which the judge has interests which may be affected by the outcome, or has personal knowledge of facts which would prevent him or her from considering all sides impartially.

10.03.080 Fairness and Diligence:

- (a) A judge shall respect and comply with tribal law and always conduct herself or himself in such a way as to promote respect for the law.
- (b) A judge shall not let social or family relationships, his or her political or religious views, or criticism or praise influence the decisions he or she makes in court.
- (c) A judge shall be patient, courteous, careful, and conscientious in the performance of all official duties.
- (d) A judge shall maintain order in the courtroom.
- (e) A judge shall make no public comment on matters pending before the court, except in the court of official proceedings.

CHAPTER 4 COURT CLERK/ADMINISTRATIVE RULES

10.04.010 Clerk

- (a) Before taking office, the court clerk shall state in the presence of the judge that he or she will perform the clerk's duties faithfully and honestly, will not let personal views and relationships affect the performance of the clerk's duties, will not attempt to influence the course of court proceedings and will not reveal confidential matters which the clerk learns in the course of official duties.
- (b) The court clerk shall have authority to do the following:
 - i. Administer oaths of persons who making complaints and affidavits;
 - ii. Prepare and certify the official record of a court hearing;
 - iii. Sign and issue summons for potential jurors and witnesses, as long as the summons will be served within the jurisdiction of the Nooksack Tribe; and
 - iv. Schedule trials and other hearings.

10.04.020 Court Records

- (a) Official records of the Tribal Court shall be maintained by the clerk. Such records shall be kept in an office designated by the Tribal Council and shall not be removed from that office or the courtroom except with the permission of the chief judge or the court administrator.
- (b) All testimony and arguments given in open court shall be recorded electronically, and/or steno-graphically. These records shall be part of the official record of each case and shall be kept by the clerk with other official records. A transcript shall be made of the recording upon request of a judge, or at the request of a party. A party who requests a transcript shall bear the cost of preparing it unless the judge excuses the party from paying.
- (c) Official Tribal Court records kept by the clerk are:
 - i. A calendar of scheduled court hearings;
 - ii. A list of advocates permitted to appear in the Tribal Court;
 - iii. A separate file for each case filed in the Tribal Court, containing copy of every document submitted in the case;
 - iv. A payment ledger showing all funds received and disbursed in the course of each case filed in Tribal Court;

- v. A docket book which shows, for each case filed in Tribal Court, the case file number, the parties' names and short description of every document filed, and every order issued in the case, including the date of the order or filing; and
 - vi. Separate files for search warrants, arrest warrants, and restraining orders.
-
- (d) Unless a Tribal ordinance, tribal policy, or order of the court requires that a record be kept confidential, all official records of the Tribal Court shall be available for inspection at the Tribal Court by judges, the court clerk and court administrator, and parties and their advocates only. They shall be open to other persons only by consent of the Tribal Council, consistent with the Tribal Records Policy.
 - (e) The court clerk shall be responsible for overseeing inspection of court records to insure that the records remain intact.
 - (f) Court records shall be retained in the tribal files for a period of three years. After the three year period, the clerk shall transfer the records to an archives designated by the Tribal Council.

10.04.030 Review of Filed Documents: The clerk is responsible for determining whether a document shall be accepted for filing. A document that fails to comply with the requirements of this Title shall be rejected and returned to the filing party along with a Notice of Rejection stating the basis for the rejection.

CHAPTER 5 CIVIL PROCEDURE

10.05.010 Court Divisions:

- (a) There is hereby created a Nooksack Tribal Court.
- (b) The Nooksack Tribal Court shall have two divisions:
 - i. A Tribal Court
 - ii. An Appeals Court
- (c) The Tribal Court shall become operative upon enactment of this Title. The appeals division shall become operative upon enactment of appropriate laws governing that division.

10.05.020 Jurisdiction: Pursuant to Article I of the Constitution and Bylaws of the Nooksack Indian Tribe, “[t]he jurisdiction of the Tribe shall extend to all lands now held in the name of the tribe or which hereafter may be acquired for or by and held in the name of the Nooksack Indian Tribe. The Nooksack Indian Tribe may exercise its jurisdiction to the fullest extent allowed by law.”

- (a) The Nooksack Tribal Court’s territorial jurisdiction shall include:
 - i. The territory described in Article 1 of the Nooksack Constitution.
 - ii. Off –reservation fishing grounds and open and unclaimed lands reserved for hunting and gathering as established by the treaty of Point Elliott. (12 Stat. 927)
- (b) Pursuant to Article VI, Section 2(a)(3) of the Constitution, the Nooksack Tribal Court shall have subject matter jurisdiction over:
 - i. All Indians on tribal lands;
 - ii. All civil matters concerning members of the Nooksack Indian Tribe;
 - iii. All matters concerning the establishment and functions of the tribal government, provided that nothing herein shall be construed as a waiver of sovereign immunity by the tribal government;
 - iv. All cases or controversies between Indians and non-Indians where such cases are brought before it by stipulation of the non-Indian, provided that the court shall have jurisdiction over civil matters arising on tribal lands without the necessity of stipulation of any parties, and provided that jurisdiction over Indian employees of the federal government for matters concerning the duties and actions of such employees in the furtherance of their employment shall be

subject to the rules and regulations prescribed by the federal government; and
v. such other matters the Tribal Council gives it elsewhere in this Title.

- (c) Persons. The Nooksack Tribal Court shall have personal jurisdiction to the maximum extent permitted by Federal and Tribal law.
- (d) The rules of civil procedure used in State or Federal court shall not apply to hearings in the Nooksack Tribal Court, unless agreed to by all parties and by order of the court.
- (e) The Tribal Court is not granted the power or jurisdiction to issue writs of mandamus against the Tribe, nor against Tribal Council members or the Chairman of the Nooksack Tribe in their official capacities.
- (f) Unless specifically provided elsewhere in Tribal law, the statute of limitations for civil actions shall be 3 years.

10.05.030 Court Sessions:

- (a) All sessions of the Tribal Court shall be held on the Nooksack Reservation or other properties owned by the Nooksack Tribe unless otherwise agreed by the parties or unless it is necessary to hold an arraignment or bail hearing at another Tribal Court in order to provide a timely proceeding for an accused person in custody.
- (b) The Court shall, by administrative order, set and publish a schedule for regular court sessions.
- (c) Motions may be heard on a special setting, but special settings shall be the exception, not the rule, and shall be permitted only under extraordinary circumstances. A party seeking to have a motion heard on a special setting must first obtain the agreement of the non-moving party before requesting a special setting from the clerk.
- (d) Unless otherwise provided in these rules, the court clerk shall set and record the time for trials and other hearings. The clerk may consult with the court administrator and the judge, as necessary, to determine the availability of the Court facilities and the judge.
- (e) In setting the time for trials and other hearings, the court's calendar shall be arranged in the following order of precedence:
 - i. Criminal cases;

- ii. Civil cases with statutory precedence, such as Minor in Need of Care cases;
- iii. All other civil cases.

10.05.040 Pleadings Allowed; Amended and Supplemental Pleadings:

- (a) There shall be a complaint and an answer; a reply to a counterclaim denominated as such; an answer to a cross claim, if the answer contains a cross claim; a third party complaint, if a person who was not an original party is joined in the proceeding; and a third party answer, if a third party complaint is served. No other pleading shall be allowed.
- (b) A party may amend the party's pleading once as a matter of course at any time before a responsive pleading, motion to dismiss, or motion for summary judgment is served. Otherwise, a party may amend the party's pleading only by leave of court or by written consent of the adverse party, and leave shall be freely given when justice so requires; except that the court shall not grant leave to amend a complaint when there is a pending motion to dismiss or for summary judgment,

10.05.050 Filing, Time Limits, and Notice:

- (a) A copy of every complaint, summons, warrant, motion, written argument, agreement, order, or other document which records action taken by the parties and by the court during Tribal Court shall be filed with the clerk. If there is a filing fee or other cost associated with the filing of a document, the filing party shall be solely responsible to ensure the following:
 - i. The fee is paid in advance;
 - ii. The employee receiving the fee issues a receipt (or other proof of payment) that identifies the specific purpose for which the fee is paid; and
 - iii. The Court Clerk receives the receipt (or other proof of payment) at the time of filing.
- (b) The court clerk shall reject and shall not file any pleading (or other document) for which a filing fee is required, without prepayment.
- (c) A defendant shall cause to be served an answer within the following periods:
 - i. For a complaint filed against the Nooksack Indian Tribe or its officers, employees or agents, the answer shall be due within 60 days, exclusive of the day of service.

- ii. For a complaint filed against any individual or entity other than the Nooksack Indian Tribe or its officers, employees or agents, the answer shall be due within 20 days, exclusive of the day of service.
- (d) In all actions wherein the Tribe (or its officers, employees, or agents) is not the named Defendant, the Court may grant a default wherein a Defendant has failed to answer or otherwise appear following the expiration of the deadline to file an answer.
- (e) A party filing a document with the clerk shall ensure that a working copy of the document is also provided to the judge who will be hearing the case. No document shall be accepted by the clerk for filing unless the working copy for the judge is presented at the same time.
- (f) Except as otherwise provided herein, a party who files any document with the court clerk in a case in Tribal Court shall ensure that every party in the case is served a copy of the same document. If an attorney or spokesperson represents a party, the document shall be served upon that advocate.
 - i. Except for service of the summons and complaint, service may be accomplished by in person delivery, by depositing a copy with the post office, addressed to the person on whom they are being served, with postage prepaid. Service by mail shall be deemed complete upon the third day following the day upon which the copy is placed in the mail, unless the third day falls on a Saturday, Sunday, or Tribal closure day, in which event service shall be deemed complete on the first day other than a Saturday, Sunday, or Tribal closure day.
 - ii. Service of the summons and complaint shall be made by personal service by law enforcement, or by any person over 18 years of age who is competent to be a witness in the action, other than a party. Alternatively, service by publication or other means pursuant to order of the Court; and, substitute service, where allowable under the Washington law and not inconsistent with Tribal law, may be made.
 - iii. Service under this rule may be made by delivering a copy by e-mail, as long as the parties have an agreement in advance to accept service by such means. Except for motions with a noon deadline as provided in NTC 10.05.050(e), service by e-mail is complete on transmission when made prior to 5:00 p.m. on a judicial day. Service made on a Saturday, Sunday, Tribal closure day, or after 5:00 p.m. on any other day shall be deemed complete at 9:00 a.m. on the first judicial day thereafter. Service under this section is not effective if the party making service learns that the attempted service did not reach the person to be served.

- iv. Every party shall provide the clerk with a current and updated address at which service of orders of the court or copies of documents may be made. If a party is represented by an advocate, the advocate shall provide the clerk with an address at which service may be made.
- (g) In cases involving the Nooksack Indian Tribe, or its officers, agents, or employees as a named party Defendant, the Plaintiff shall serve initial process by way of certified mail, return receipt requested upon the Chairman and the Office of Tribal Attorney.
- (h) Following the deadline for a defendant to answer, upon request by either party, the Court may schedule a preliminary hearing in which the issues are to be determined and motions and/or trial settings are made. The parties or the court may continue any matter at the preliminary hearing.
- (i) Unless the judge issues an order or makes a decision in open court when all parties are present, decisions and orders of the court shall be in writing and the clerk shall provide a copy of each ruling to each party in the case.
- (j) Electronic filing of documents with the court is not permitted absent order of the Court and agreement of the parties.

10.05.060 Timing:

- (a) Whenever a rule, an ordinance, or an order of the court requires that an action be taken within a certain number of days, the day of the event from which the time limit runs should not be counted; but the last day should be counted, unless it is a Saturday, Sunday or Tribal closure.
- (b) When a time limit is counted from the date of delivery of a notice and the notice is delivered by mail, the time limit shall begin to count on the third day after the postmarked date.
- (c) Unless there is proof of earlier delivery, any notice or document delivered by mail will be considered to be delivered on time if the postmarked date is on or before the last day of the time limit.
- (d) The judge may allow an extension of any time limit as long as the right to a speedy trial in criminal cases is not denied.
- (e) Motions: Except for motions for default provided for in 10.05.050(d) and dispositive motions provided for in section (f), and motions to short time provided for in (g), the moving party shall serve and file all civil motion documents no later than six court days before the date the party wishes the motion to be considered.

- i. The time and date for hearing shall be scheduled in advance by the moving party by contacting the clerk prior to filing the motion. The moving party is responsible for filing and serving a note for motion documenting the pre-scheduled court motion date.
 - ii. The moving party shall coordinate with the opposing party or his advocate, if he has one, prior to scheduling a hearing. Such coordination may take place by telephone or electronic communication. The mere sending of a written, electronic or voicemail communication, does not satisfy the requirement to coordinate, the moving party must receive a response to the written, electronic, or voicemail communication from the non-moving party prior to contacting the clerk. Both parties shall cooperate and act in good faith in scheduling.
 - iii. Any party opposing a motion shall file and serve the original responsive papers in opposition to a motion, serve copies on parties, and deliver working copies to the court no later than 12:00 noon two court days before the date the motion is to be considered. For cases where the parties have agreed to electronic service in writing and in advance, the electronic service also must be completed by 12:00 noon on the due date.
 - iv. Any documents in strict reply shall be similarly filed and served no later than 12:00 noon on the court day before the hearing. For cases where the parties have agreed to electronic service in writing and in advance, the electronic service also must be completed by 12:00 noon on the due date.
- (f) Dispositive Motions: A party seeking to recover upon a claim, counterclaim, or cross claim, or to obtain a declaratory judgment; or a party against whom a claim, counterclaim, or cross claim is asserted or a declaratory judgment is sought may move with or without supporting affidavits for a summary judgment in his favor upon all or any part thereof.
- i. The motion and any supporting affidavits, memoranda of law, or other documentation shall be filed and served not later than 21 calendar days before the hearing.
 - ii. The adverse party may file and serve opposing affidavits, memoranda of law or other documentation not later than 7 calendar days before the hearing.
 - iii. The moving party may file and serve any rebuttal documents not later than 3 calendar days prior to the hearing. If the date for filing either the response or rebuttal falls on a Saturday, Sunday, or legal holiday, then it shall be filed and served not later than the next Court day.

- (g) Shortened Time. The time for notice and hearing of a motion may be shortened only for good cause upon written application to the court in conformance with this rule. A motion for order shortening time may not be incorporated into any other pleading.

As soon as the moving party is aware that he or she will be seeking an order shortening time, that party must contact the opposing party to give notice in the form most likely to result in actual notice of the pending motion to shorten time. The declaration in support of the motion must indicate what efforts have been made to notify the other side.

Except for emergency situations, the court will not rule on a motion to shorten time until the close of the next court day following filing of the motion (and service of the motion on the opposing party) to permit the opposing party to file a response. If the moving party asserts that exigent circumstances make it impossible to comply with this requirement, the moving party shall contact the court clerk to arrange for a conference call, so that the opposing party may respond orally and the court can make an immediate decision.

The court may deny or grant the motion and impose such conditions as the court deems reasonable.

- (h) Prepayment Required. Any document submitted for filing for which a filing fee is required must be accompanied by proper proof of payment of the fee. The clerk will not accept for filing any document for which a filing fee is required, without proper proof of payment of the fee.
- (i) The court clerk shall reject and shall not file any motion that fails to comply with this section.

10.05.070 Form of Pleadings:

- (a) Unless otherwise specified by the judge or in these rules, defenses, motions, arguments, and other requests made to the court shall be in writing, especially where the matters to be considered by the judge are complex.
- (b) There is no required form for written materials filed with the court. However, all pleadings should be clear and legible, shall contain the name of the court, the names of all parties, the case number, shall bear the signature of the party filing the pleading (or the signature of the party's advocate), and shall contain any other information required by these rules. For convenience, the administrator and clerk may develop standard forms for pleadings and notices.

10.05.080 Court Behavior

- (a) All persons who attend Tribal Court hearings shall be quiet and orderly while court is in session. No person shall make loud noises or speak out during a court session unless called as a witness.
- (b) The judge may appoint a person to keep order in the courtroom. Persons who disrupt the court proceedings or are disrespectful of the Court may be ordered to leave the courtroom.
- (c) Persons who violate this rule or any court orders intended to maintain order in the courtroom may be found in contempt of court.

10.05.090 Compelling Witnesses to Appear (Subpoena):

- (a) Any party to a lawsuit or proceeding in the Nooksack Tribal Court shall have the right to compel witnesses to appear in court on his or her behalf.
- (b) Upon the request of a party, the court shall issue a summons (subpoena), which commands a named person to appear in court and/or to bring certain evidence and/or documents to court.
- (c) The clerk may sign and issue summonses for witnesses if they are to be served on the Nooksack Tribal lands. In all other situations, the summons shall be issued and signed by the judge.
- (d) Every summons shall be in writing and shall include the name of the court, the names of the all parties, the time and place that the witnesses must appear and a clear and detailed description of any documents or evidence, which the witness is required to bring.
- (e) A summons shall be delivered to the witness by a person named by the court for that purpose by certified mail, return receipt requested if the person cannot be served within the territorial jurisdiction of the court. The summons may be delivered personally, either by giving it to the witness directly or by leaving it at the witness' residence or place of employment with a person at least 14 years old who lives or works there.
- (f) A person who delivers a summons to a witness shall promptly file a declaration of service with the clerk describing where, when and how delivery was made. In the case of summonses delivered by mail, the clerk shall file the return receipt and a written signed statement describing when and to whom the summons was mailed.
- (g) A witness' failure to appear and timely object to a summons shall be grounds for holding the witness in contempt of court.

- (h) A witness who responds to a summons shall be entitled to a fee of \$10 and allowable travel expenses for each day that he or she must appear in court.
- (i) The procedure in this section shall also apply to summoning jurors.

10.05.100 Costs:

- (a) Upon making his or her final decision, the judge may order the losing party to pay the prevailing party the costs of the lawsuit or prosecution, unless the applicable Title provides otherwise or the judge decides that requiring payment of costs would be unjust.
- (b) Costs shall not be imposed on the Nooksack Tribe or any agency or branch of the Tribe.
- (c) Costs shall include:
 - i Filing Fees;
 - ii Costs of delivering summonses and complaints;
 - iii Costs of postage for court notices;
 - iv Costs of the transcription of records for appeal; and
 - v Fees and expenses paid to witnesses and jurors.
- (d) Costs shall not include the fees of a party's advocate.
- (e) The responsible party shall pay all court costs and fines directly to the Nooksack Tribal Accounting Department. The responsible party must then submit a paid receipt to the Nooksack Tribal Court Clerk.
- (f) No persons shall be jailed because he or she is unable to pay costs.

10.05.110 Contempt of Court:

- (a) Any person who is found by a Tribal Court judge to have committed one of the following acts may be declared in contempt of court and punished by a fine no greater than \$1,000 or by imprisonment no longer than six months or both:
 - i. Violent or disorderly conduct in the courtroom while court is in session;
 - ii. Repeated, willful disregard of court procedures demonstrating utter lack of respect for the court's authority and function.
- (b) If the above acts are committed in the presence of the judge, personally observed by the judge, and the judge acts on the basis of his/her own

observations, the judge may find the person guilty of contempt after allocution with the individual.

10.05.120 Judgments, Generally:

Judgment includes a decree and any final order from which an appeal lies. Judgments shall be in writing, signed by the Court.

(a) Entry of Judgment. Upon the verdict of a jury, the Judge shall render judgment in accordance with the verdict. If the trial is by Judge, the Judge may make findings of fact and conclusions of law and shall enter judgment after the close of trial.

(b) Multiple Claims. When more than one claim for relief is presented in an action, the Court may direct the entry of a final judgment upon one or more, but less than all, of the claims.

(c) Cross-Claim – Counterclaim. If an original complaint is dismissed and a counterclaim or cross-claim has been alleged, trial and judgment may be had on the counterclaim or cross-claim, even if the original complaint has been dismissed or otherwise disposed of.

(d) Stay of Proceeding to Enforce Judgment. When the Court has ordered a final judgment on some but not all of the claims presented in the action, the Court may stay enforcement of the judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit to the party in whose favor the judgment is entered.

(e) Fixing and Collection of Costs; Interest. Upon judgment, costs are permitted pursuant to N.C.L., Title 10, §10.05.100. In addition to costs, judgments shall bear interest at the rate of twelve percent (12%) in the absence of an agreed or contractually approved rate, in which case, the judgment shall bear interest at the agreed or contractually approved rate.

10.05.130 Default Judgment:

(a) Entry of Default. Entry of default may be made upon a party against whom a judgment for affirmative relief is sought has failed to appear, plead, or otherwise defend as provided by this Title or other applicable Tribal law and that fact is made to appear by motion and declaration.

(b) Pleading After Default. Any party may respond to any pleading or otherwise defend at any time before a motion for default is filed, whether the party previously has appeared or not. If the party has appeared before the motion is filed, the party may respond to the pleading or otherwise defend at any time before the hearing on the motion. If the party has not appeared before the motion is filed, the party may not respond to the pleading nor otherwise defend without leave of court.

(c) Notice. Any party who has appeared in the action for any purpose shall be served as provided by this Title or other applicable Tribal law. Any party who has not appeared before the filing of the motion for default is not entitled to a notice.

(d) Setting Aside Default. For good cause shown and upon such terms as the court deems just, the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with this Title.

(e) No default judgment shall be ordered without affidavit or testimony demonstrating compliance with the Servicemembers Civil Relief Act, 50 U.S.C. § 3901 et. seq.

10.05.140 Summary Judgment:
Dispositive motions, including a motion for summary judgment shall be presented in accordance with the provisions of N.C.L. Title 10, § 10.05.060(f).

10.05.150 Involuntary Dismissal; Effect. For failure of the plaintiff to prosecute or to comply with these rules or any order of the court, a defendant may move for dismissal of an action or of any claim against him or her.

(a) Want of Prosecution on Motion of Party. Any civil action shall be dismissed, without prejudice, for want of prosecution whenever the plaintiff, counterclaimant, cross claimant, or third party plaintiff neglects to note the action for trial or hearing within 1 year after any issue of law or fact has been joined, unless the failure to bring the same on for trial or hearing was caused by the party who makes the motion to dismiss. Such motion to dismiss shall come on for hearing only after 10 days' notice to the adverse party. If the case is noted for trial before the hearing on the motion, the action shall not be dismissed.

(b) Dismissal on Clerk's Motion. Notice. In all civil cases in which no action of record has occurred during the previous 12 months, the clerk shall notify the parties (or their advocates) by mail that the court will dismiss the case for want of prosecution unless, within 30 days following the mailing of such notice, a party takes action of record or files a status report with the court indicating the reason for inactivity and projecting future activity and a case completion date. If the court does not receive such a status report, it shall, on motion of the clerk, dismiss the case without prejudice and without cost to any party.

- i. Mailing notice; reinstatement. The clerk shall mail notice of impending dismissal not later than 30 days after the case becomes eligible for dismissal because of inactivity. A party who does not receive the clerk's notice shall be entitled to reinstatement of the case, without cost, upon motion brought within a reasonable time after learning of the dismissal.

- ii. Discovery in process. The filing of a document indicating that discovery is occurring between the parties shall constitute action of record for purposes of this rule.

10.05.160 New Trial; Reconsideration; Amendment:

(a) Not later than ten (10) days after a judgment is final, a party move the Court for reconsideration of the judgment. A judge may grant a new hearing or reconsider and change the judgment for good cause shown.

(b) On the motion of a party and upon terms that are just, the Court may relieve a party from a final judgment for the following reasons:

- i. the original judgment was based on or reached as a result of mistake or excusable neglect;
- ii. there is new information available which could have affected the outcome of the case and which could not, with reasonable effort, have been discovered in time for the hearing on the case;
- iii. fraud;
- iv. the judgment is void; or
- v. any other reason justifying relief from the operation of the judgment.

(c) The motion shall be made within a reasonable time.

(d) Clerical mistakes in judgments or orders arising from oversight or omission may be corrected by the Court at any time of its own initiative or on the motion of any party and after such notice, if any, as the Court orders.

10.05.170 Action on Judgment:

Unless a longer period is prescribed in Tribal law, the period prescribed for the commencement of actions upon a judgment or decree of the Tribal Court shall be ten (10) years. A party in whose favor a judgment has been rendered, or the assignee or the current holder thereof, may, within ninety days before the expiration of the original ten-year period, apply to the Tribal Court that rendered the judgment or for an order granting an additional ten years during which an execution, garnishment, or other legal process may be issued.

CHAPTER 6 ENFORCEMENT OF JUDGMENTS

10.06.010 Remedies Cumulative:

The remedies identified herein shall be cumulative in nature and a party may exercise the powers herein in addition to any other action permitted by Tribal law.

10.06.020 Exemptions:

Every debtor may exempt the following property from execution:

- (a) A homestead exemption, as set forth in Chapter 6.13 of the Revised Code of Washington;
- (b) All wearing apparel of every person, but not to exceed three thousand five hundred U.S. dollars (\$3,500.00) in value in furs, jewelry, or other personal affects for any one person;
- (c) Items of bona fide religious or cultural significance;
- (d) Tools, instruments, and materials used to carry on a trade, in a value not to exceed ten thousand U.S. dollars (\$10,000.00);
- (e) A motor vehicle used for personal transportation, not to exceed three thousand two hundred fifty U.S. dollars (\$3,250.00.00) in total value;
- (f) household furnishings, household goods, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor, not to exceed four hundred U.S. dollars (\$400.00) in value in any particular item or eight thousand U.S. dollars (\$8,000.00) in total value;

No property shall be exempt under this Section from execution issued upon a judgment for all or any part of the purchase price of the property, or for any tax levied upon such property, or if the property has been specifically pledged as security to the judgment creditor, unless execution against the pledged property is inconsistent with another section of this Ordinance.

The Tribal Court shall not authorize execution against trust property except as provided in N.C.L. 10.06.100.

10.06.030 Claim of Exemption:

To claim property as exempt, the judgment debtor shall file an itemized list of property owned or claimed by the judgment debtor, as exempt. A copy of the itemized list shall also be served upon the judgment creditor (or advocate), and delivered to the officer executing the order. Failure to claim items as exempt prior

to their sale or delivery to the judgment creditor shall result in a waiver of the exemption.

10.06.040 Fraudulent Transfers Voidable:

(a) A transfer made or obligation incurred by a debtor is voidable as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:

- i. With actual intent to hinder, delay, or defraud any creditor of the debtor; or
- ii. Without receiving a reasonably equivalent value in exchange for the transfer or obligation;

(b) A transfer made or obligation incurred by a debtor is voidable as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation;

(c) A transfer made by a debtor is voidable as to a creditor whose claim arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at that time, and the insider had reasonable cause to believe that the debtor was insolvent.

(d) A creditor making a claim for relief under subsection (a)-(c) of this section has the burden of proving the elements of the claim for relief by a preponderance of the evidence.

(e) In an action for relief against a transfer or obligation under this section, a creditor may obtain:

- i. An order of avoidance of the transfer or obligation to the extent necessary to satisfy the creditor's claim;
- ii. An or order of attachment or other provisional remedy against the asset transferred or other property of the transferee if available under applicable law;
- iii. An injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property;
- iv. Appointment of a receiver to take charge of the asset transferred or of other property of the transferee; or

v. Any other relief the circumstances may require.

(f) Notwithstanding voidability of a transfer or an obligation under this chapter, a good-faith transferee is entitled, to the extent of the value given the debtor for the transfer or obligation, to:

- i. A lien on or a right to retain an interest in the asset transferred;
- ii. Enforcement of an obligation incurred.

10.06.050 Surrender of Property:

A judgment debtor may voluntarily surrender, by written consent, secured personal property to the judgment creditor. The written consent of the judgment debtor must be obtained at the time of surrender. Contract provisions for voluntary surrender, executed in advance of the judgment debtor's voluntary surrender, are not allowed or valid.

10.06.060 Self-Help Remedies and Repossession Prohibited:

(a) All self-help remedies for the recovery of personal property, including, but not limited to, motor vehicles and mobile homes secured to insure payment of obligations, are hereby declared unavailable except as provided in this Chapter.

(b) A secured creditor seeking to repossess secured personal property may move the Tribal Court for an order authorizing repossession of a particular item or items of personal property.

(c) The Tribal Court shall issue an order of repossession upon a finding that the secured creditor has submitted proof of the following:

- i. existence of a valid contact between the secured creditor and the secured debtor;
- ii. proof of the amount owed by the secured debtor on the secured collateral;
- iii. proof that the secured debtor is in default; and
- iv. proof that notification was given to the secured debtor(s) that he was delinquent in payments to the secured creditor.

10.06.070 Execution:

Execution shall be allowed on any final judgment, subject to the provisions of Title 80.

(a) Execution shall consist of two types of orders: Attachment and Garnishment, which may be used as follows:

- i. Attachment shall be used to seize the property of a judgment debtor that is in the possession of the judgment debtor.
- ii. Garnishment shall be used to seize the property of the judgment debtor that is in the hands of a third party.

(b) A judgment creditor seeking to seize the property of a judgment debtor may move the Tribal Court for an order of attachment and/or garnishment

- i. Attachments: Upon the filing of a proper application, the judge shall issue the requested order. An order of attachment shall be directed to the Nooksack Tribal Police Department and shall direct them to either seize the described property and hold it for sale at the direction of the Court, or to insure that the judgment creditor is able to take possession of the described property without disturbing the peace.
- ii. Garnishments: Upon the filing of a proper application, the judge shall issue the requested order. The garnishment order shall be directed to the person in possession of the garnished property and shall direct him to pay over to the Nooksack Indian Tribe Accounting Office, any and all monies or other things of value in his possession and belonging to the judgment debtor up to the amount of the judgment and subject to the exemptions contained in Tribal or other applicable.
- iii. Service: Orders of attachment or garnishment shall be served in the same manner as the summons and complaint. Proof of service shall be filed with the Court.

(c) A party shall not file any pleading with the clerk of the court in an action commenced under this section unless on forms approved by the Court Administrator.

10.06.080

Garnishment:

(a) Upon receipt of an order of garnishment, a third party shall pay over to the Nooksack Accounting Department any property in his possession and belonging to or owed to the judgment debtor, subject to the exemptions set out in subsection (b), up to the amount of the judgment. Failure to respond to the order of garnishment or disbursement of the property to the judgment debtor, or failure to disburse the property to any person as directed by the court order, following receipt of the order, may subject the garnishee-defendant to prosecution for contempt of court.

(b) For each week of such earnings, an amount shall be exempt from garnishment which is the greatest of the following:

- i. Thirty-five (35) times the federal minimum hourly wage in effect at the time the earnings are payable; or
- ii. Seventy-five percent (75%) of the disposable earnings of the defendant; or
- iii. In the case of a garnishment based on a judgment or other order for child support or court order for spousal maintenance, as set forth in Title 14, and in the absence of a maximum exemption, the exemption shall be fifty percent (50%) of the disposable earnings of the defendant; or
- iv. In the case of a garnishment based on a judgment or other order for the collection of private student loan debt, for each week of such earnings, an amount shall be exempt from garnishment which is the greater of the following:
 - (1) Fifty (50) times the minimum hourly wage of the highest minimum wage law in the state at the time the earnings are payable; or
 - (2) Eighty-five percent (85%) of the disposable earnings of the defendant.

(c) Unless directed otherwise by the court, the garnishee shall determine and deduct exempt amounts under this section as directed in the writ of garnishment and answer, and shall pay these amounts to the defendant/judgment debtor.

(d) No money due or earned as earnings shall be exempt from garnishment under the provisions of section N.C.L. 10.06.020, as now or hereafter amended.

10.06.090

Attachment:

When property has been paid over to the Court or seized and delivered to the Court in accordance with this section 10.06.080, the Court, within fourteen (14) days of receipt, shall give the judgment debtor a written notice of the following:

(a) that the described property is in the possession of the Court, or someone else the Court has designated to hold the property, pursuant to court order;

(b) that the property will be sold at public auction, in a commercially reasonable manner, on a date specified in the notice, and the proceeds will be applied to the

judgment and to the costs incurred by the Court or the Nooksack Tribal Police Department;

(c) that the judgment debtor has the right to contest the execution order and request a hearing; and

(d) that the judgment debtor has the right to satisfy the judgment and obtain the return of the property.

10.06.100 Individual Indian Money Accounts:

Wherein a judgment is issued from the Tribal Court naming a Nooksack tribal member as a judgment debtor and naming the judgment creditor as the Nooksack Indian Tribe, the Tribe may request that the Secretary of Interior apply funds of the Tribal member's Individual Indian Money account (or other trust account) to satisfy said judgment, consistent with 25 U.S.C. § 410 and 25 C.F.R. 115.104, or as hereafter amended.

10.06.110 Supplemental Proceedings:

After an order of execution has been issued, or upon motion by the judgment creditor, the Court may require the judgment debtor to submit a list of the location and nature of his assets which may be used to satisfy the judgment, and those assets which he wishes to claim as exempt. The list may be provided by written or oral response and shall be made under oath. A request by the Court to receive this list shall be answered and returned to the Court within five (5) days and the request shall carry instructions to that effect. If the judgment debtor fails to appear or respond in either oral or written form, the judgment creditor may obtain and serve him with an order to show cause why he should not be held in contempt.

10.06.120 Sale, Assignment, and Transfer of Judgments:

A judgment creditor may sell, assign, or otherwise transfer a judgment of the Nooksack Tribal Court provided that the sale, assignment or transfer is in writing, executed by the judgment creditor, properly acknowledged, and filed with the Tribal Court.

10.06.130 Discharge:

A person who pursuant to an execution or order issued under this Title by a court pays or delivers to the Tribal Court or Police Department, or a receiver, money or other personal property in which a judgment debtor has or will have an interest, or so pays a debt such person owes the judgment debtor, is discharged from such debt to the judgment debtor to the extent of the payment or delivery.

10.06.140 Debts Owed to Tribe:

For debts owed to the Tribe wherein the debtor has failed to timely pay, the Tribe shall issue the following notices prior to seeking judicial resolution:

(a) The Tribe will send the debtor a notice that the debtor's payment is late,

request an immediate payment, and identify the total amount owed to include any other allowable costs or charges by first class mail when a payment becomes ten (10) or more days overdue.

- (b) The Tribe will send the debtor a notice that the debtor's payment is late, request an immediate payment, and identify the total amount owed to include any other allowable costs or charges by first class mail when a payment becomes thirty (30) or more days overdue.
- (c) Whenever a debt becomes thirty (30) or more days delinquent the Official may assess charges, in addition to the outstanding balance of the debt for damages incurred. Such damages may include, but are not limited to, the loss of interest income, legal fees and other costs incurred for collection, including court costs.
- (d) For debts owed to the Nooksack Indian Tribe by a person who may also be entitled or eligible to receive any monetary payment or other benefit, extension of credit, license, or privilege, the Nooksack Tribe may administratively withhold the monetary payment, benefit, extension of credit, license, or privilege to that person, and reduce the debt that person owes to the Nooksack Tribe in an amount equal to the monetary payment or other benefit, PROVIDED, the Tribe complies with any applicable law, regulation, or policy.

CHAPTER 7 RULES OF EVIDENCE

10.07.010 Purpose: The purpose of these rules of evidence is to ensure that the Tribal Court is able to determine the truth of a matter and to minimize delay, confusion, and uncertainty.

10.07.020 General Rules:

- (a) The rules of evidence used in state or federal courts shall not apply to hearings in the Nooksack Tribal Court, unless agreed to by all parties and by order of the court.
- (b) Where there is more than one type of evidence regarding the same subject, the judge shall hear the most reliable type of evidence. In oral testimony, persons who testify from their personal knowledge (such as first-hand observation of, or participation in the event described) shall be preferred as witnesses to person who have second-hand knowledge of the event.
- (c) Evidence admitted in the Tribal Court must be related either to the issue the judge or jury is considering or to the weight and credibility to be given to other evidence. In a jury trial, the judge may hear arguments out of the jury's presence regarding whether to admit challenged evidence.
- (d) When the relevance or reliability of evidence is challenged, the judge shall explain why the evidence will or will not be used. If the evidence is used, the judge shall explain what importance he or she assigns to it.
- (e) The judge may take notice of facts, which are a matter of official public record, even if no party introduces them as evidence.
- (f) Evidence related to the customs, traditions and common understanding of the Nooksack Tribe shall be admissible as evidence of the Nooksack Tribe's "custom law".

10.07.030 Self-Incrimination:

- (a) Every person who appears as a witness in Nooksack Tribal Court has the right to refuse to answer a question if the answer may tend to incriminate or expose the witness to an accusation or charge of a crime.
- (b) The judge shall determine the order in which the parties or their advocate shall be allowed to question witnesses. The judge shall protect the witnesses from harassment or unnecessarily repetitive questioning.

- (c) During questioning of a witness, the judge may exclude the courtroom witnesses who have not yet testified if this seems necessary to ensure all witnesses will give truthful testimony.
- (d) The judge may call and/or question any witnesses on his or her own initiative; provided, the judge shall not act as prosecutor in criminal proceedings.

10.07.040 Written Testimony and Documentary Evidence

- (a) Testimony of a witness may be presented in writing if:
 - i The witness is unable to appear in person to testify and the evidence presented in writing is not contradicted by other parties, or
 - ii The written testimony is offered to support a motion or any uncontested request for relief. Written testimony should show clearly who gave it and when the witness gave it. Testimony should be given under oath if possible.
- (b) Copies of written records, photographs, and other documentary evidence may be presented as long as there is a reasonably reliable way to identify the items.

CHAPTER 8 RULES OF CRIMINAL PROCEDURE

- 10.08.010 Scope: These rules govern the procedure in the Nooksack Tribal Court in all criminal proceedings, and supersede all procedural ordinances and rules that may be in conflict. They shall be interpreted to ensure simplicity and avoid undue expense and delay.
- 10.08.020 Subject Matter Jurisdiction: The Nooksack Tribal Court shall have jurisdiction over all crimes enumerated in this Code and committed:
- (a) Within the territory described in Article 1 of the Nooksack Constitution; and
 - (b) On off-reservation fishing grounds and related to enforcement of tribal fishing ordinances or regulations; and
 - (c) On open and unclaimed lands reserved for hunting and gathering, provided that the crimes are related to hunting or gathering activities.
- 10.08.030 Statute of Limitation: No time period is set for a statute of limitation. However, if the Tribe's prosecution of a case constitutes oppressive delay which results in a deprivation of a defendant's due process rights, the Court may dismiss a case.
- 10.08.040 Searches Without Warrants: No enforcement officer shall search a person or property unless the officer has a search warrant issued by the Tribal Court or unless the search:
- (a) Is conducted incident to a lawful arrest or citation;
 - (b) Is conducted following the voluntary consent of a person who has authority to consent to the premises searched;
 - (c) Constitutes a limited protective frisk for weapons conducted pursuant to an officer's reasonable safety concern justifying the search;
 - (d) Constitutes an inventory search restricted to areas necessary to fulfill the purposes of the search (i.e.; risk of loss and/or damage);
 - (e) Occurs from a vantage point that the officer has a lawful right to be present and the items seized were immediately recognized as contraband or as having some evidentiary value, and the discovery of which was inadvertent.
 - (f) When incident to arrest, to gain control over a weapon or other evidence immediately distinguishable concerning the offense that prompted the arrest.

10.08.050 Search Warrants:

- (a) The tribal judge shall have the authority to issue warrants commanding enforcement officers to search the premises and/or property and to seize property of any person within the tribal court's jurisdiction. A search warrant may be issued upon the request of an enforcement officer or the tribal prosecutor.
- (b) A warrant may be issued under this rule to search for and seize any evidence of a crime, contraband, the fruits of crime, things otherwise criminally possessed, and/or other evidence for which probable cause exists to believe the evidence identified will aid in apprehending or convicting a suspect.
- (c) No warrant for search and seizure shall be issued unless the judge is presented with a written sworn statement that shows there is probable cause to believe a search will discover property that may be seized under this rule. The evidence establishing probable cause may be hearsay provided the written and sworn statement establishes the informant had the opportunity to collect the information that was provided, that the informant had the knowledge necessary to understand what was seen, and there is reason to believe the informant. The statement may be given to a judge telephonically with a written statement submitted later to the court.
- (d) Whenever necessary and appropriate, a Tribal judge may direct the court clerk, enforcement officer, or tribal prosecutor to sign the judge's name to a search warrant. When this happens, the judge shall enter an affidavit acknowledging this action into the record of the case.
- (e) Contents of the warrant. The warrant shall be signed and dated by the judge, and shall describe with particularity the person, place or thing to be searched and property to be seized. It shall command any enforcement officer to search the person, place or thing named for the property specified. Additional terms of the carrying out of a warrant may be included in the warrant at the discretion of the issuing judge.
- (f) How and when to execute warrant. The warrant shall be carried out promptly at a reasonable time within ten days of its issuance. A copy of the warrant and a receipt for the property seized shall be given to the person from whose possession or premises the property is seized. If no such person is present, a copy of the warrant and the receipt shall be posted in a conspicuous location on the property searched.
- (g) Return of warrant. Warrants that have been carried out shall be returned to the court clerk promptly and accompanied by an inventory of property

seized. Warrants that have not been carried out shall be returned to the court clerk immediately after they expire.

- (h) Searches shall be carried out in the manner that poses the least possible disruption to the person's residence and to the occupants of the residence, and with as little property damage as possible.

10.08.060 Complaint: Only the Nooksack Indian Tribe shall initiate criminal proceedings. A complaint shall contain the following:

- (a) The name of the court.
- (b) The name and/or description of the person accused of committing the offenses(s);
- (c) The name of the offense(s) charged and the section(s) of the Nooksack Tribal Code which has allegedly been violated;
- (d) A plain, concise statement of the facts constituting the offense(s);
- (e) The maximum penalties under the offense; and
- (f) The signature of the prosecutorial authority.

10.08.070 Citation Instead of Arrest:

- (a) When a person could have been arrested pursuant to a criminal violation of the Nooksack Tribal Code, and the officer has reasonable grounds to believe that the person will appear in court and does not pose a threat of immediate harm, the officer shall issue and serve upon the person accused a citation and notice to appear in court instead of keeping him or her in custody.
- (b) The citation shall include:
 - i. The name of the court;
 - ii. The name of the offense(s) charged and the official citation(s) of the code provision of the offense(s);
 - iii. The name of the person charged, his or her address, telephone, date of birth, sex and general description, if available;
 - iv. The place and time where the alleged violation occurred;
 - v. The time, date and place at which the person is to appear in court;
 - vi. The signature of the citing officers;

- (c) When signed by the citing officer and filed with the Tribal Court, the citation and notice shall be deemed a lawful complaint for the purpose of initiating prosecution of the offense charged therein.

10.08.080 Arrest Without a Warrant: A tribal law enforcement officer may take a person into custody whenever the officer has probable cause to believe the person committed a criminal violation of the Nooksack Tribal Code.

10.08.090 Issuance of Criminal Summons:

- (a) Following the filing of a criminal complaint, the court shall direct the clerk to issue a summons instead of a warrant unless it finds reasonable cause to believe that the defendant:
 - i. Will not appear in response to a summons;
 - ii. Will commit a violent offense;
 - iii. Will interfere with witnesses or the administration of justice; or
 - iv. Is in custody.
- (b) Form of Summons: A summons shall be in writing and in the name of the charging jurisdiction, shall be signed by the clerk with the title of that office, and shall state the date when issued. It shall state the name of the defendant and the nature of the charge, and shall summon the defendant to appear before the court at a stated time and place. The summons shall inform the defendant that failure to appear as commanded may result in the issuance of a warrant for the arrest of the accused.
- (c) Failure to Appear on Summons: If a defendant fails to appear in response to a summons, or if delivery is not effected within a reasonable time, a warrant of arrest may issue, if the sentence for the offense charged may include confinement in jail.
- (d) Delivery of Summons: The summons may be served by any of the following methods:
 - i. By a peace officer, by delivering the same to the defendant personally;
 - ii. By a peace officer, by delivering the same to the defendant's place of usual abode by leaving the same with a person of suitable age and discretion; or
 - iii. By the Court Clerk, by certified mail, postage prepaid, return receipt requested to the defendant at his or her last known address.
- (e) Return of Service: A peace officer to whom a summons has been given for service shall, on or before the return date, file a return thereof with the

court before whom the summons is returnable. In the case the summons was mailed, the clerk shall file the return receipt together with a written statement describing when and to whom the summons was mailed.

10.08.100 Issuance of Arrest Warrant:

- (a) Following the filing of a criminal complaint and a finding as specified in section 10.08.090(a)(i)-(iv), the Court may issue an arrest warrant.
- (b) Form of Arrest Warrant: Every arrest warrant shall contain the following information:
 - i. The name of the accused, or if unknown, a description by which he or she can be identified with reasonable certainty;
 - ii. The defendant's address, if known;
 - iii. The name of a brief description including the time and place of the offense charged, with the section of the tribal law which has allegedly been violated;
 - iv. The date the warrant is issued; and
 - v. The judge's signature.
- (c) The warrant shall command any law enforcement officer to arrest the defendant and bring him or her before the Court. A copy of the warrant shall be given promptly to the person arrested. Upon carrying out the warrant, the enforcement officer shall promptly file with the court clerk a written statement describing when, where and how the arrest warrant was carried out.
- (d) Cancellation. The judge issuing the arrest warrant may at any time cancel a warrant, which has not been carried out, or has not been delivered.

10.08.110 Failure of Service: Following the filing of a criminal complaint, if neither a summons nor an arrest warrant has issued, the complaint shall be dismissed without prejudice by operation of law.

10.08.120 Notification of Rights and Arrest: Every person arrested by a tribal enforcement officer shall be immediately advised of the following:

- (a) The right to remain silent;
- (b) The right to obtain counsel;
- (c) That statements made may be used against him (or her) in court;
- (d) That if he (or she) wishes to answer questions, he (or she) may have counsel present during questioning; and

(e) Whether or not the person understands the rights read to him (or her).

10.08.130 Amendment of the Complaint: A complaint charging a criminal offense may be amended at any time up to arraignment. The court may permit amendment to the complaint up to the day of trial, unless the defendant would be substantially prejudiced in making a defense.

10.08.140 Procedure on Failure to Obey Citation and Notice: The court may order the issuance of a bench warrant for the arrest of any defendant who has failed to appear before the court, either in person or by a lawyer, in answer to a citation and notice, or an order of the court, upon which the defendant has promised in writing to appear, or of which the defendant has been served with or otherwise received notice to appear, if the sentence for the offense charged may include confinement in jail.

10.08.150 Probable Cause Determination: A person who is arrested shall have a judicial determination of probable cause no later than the end of the second (2nd) court day following the person's arrest, unless probable cause has been determined prior to such arrest. The hearing may be held telephonically and may be *ex parte*.

10.08.160 Arraignment:

(a) At arraignment, the judge or shall first read the charges to the defendant, including the section of the Tribal code, which the defendant is accused of violating. He or she shall make sure that the defendant understands what has been read and shall also tell the defendant the maximum penalty, which may be given if the defendant is convicted.

(b) At the arraignment, the judge shall advise the defendant that he or she has the following rights:

- i. The right to remain silent;
- ii. The right to be tried by a jury of six people if the offense carries the possibility of a jail sentence in excess of six (6) months;
- iii. The right to be represented by a lawyer or other;
- iv. The right to have the rest of the arraignment postponed if the defendant desires to speak with an advocate first;
- v. The right to have the court order any witness against defendant to appear and testify at trial;
- vi. The right to question all witnesses against the defendant;
- vii. The right to call witnesses on the defendant's behalf; and
- viii. The right to a fair public trial.

(c) At any time after arraignment up to and including the beginning of trial, the judge may schedule an informal conference of the judge and all parties to consider questions of procedure and other matters, which will promote a fair and efficient trial.

10.08.170 Pleas:

- (a) At arraignment, or as soon after that as the defendant has a chance to talk with an advocate, the defendant shall state how he or she pleads in response to the charge(s). The defendant may plead “guilty,” “not guilty,” or “no contest.”
- (b) The Court may not accept a plea of guilty without first determining:
 - i. That the plea is voluntary and not the result of force or threats or of promises apart from a plea agreement.
 - ii. That the defendant understands the following: (A) the nature of the charge for which the plea is offered, any mandatory minimum penalty, the maximum penalty, and, when applicable, that the Court may require the defendant to make restitution to the victim, and (B) the defendant will be giving up his or her right to a trial and right to remain silent;
 - iii. That if the defendant pleads guilty in fulfillment of a plea agreement, the Court is not required to accept the terms of the agreement and that the defendant may not be entitled to withdraw the plea if the agreement is not accepted;
 - iv. That, in charges for which imprisonment is a possible penalty, there is a factual basis for the plea; and
 - v. If a defendant voluntarily enters a plea of guilty, the Judge may impose a sentence at that time or, on the Court’s own motion or the request of either party, schedule a sentencing hearing in order to allow sufficient time for the involved parties to obtain any information deemed necessary for the imposition of a just sentence.
- (c) If the defendant pleads not guilty, the judge shall set a trial date and a schedule for pre-trial motions and discovery. The judge shall also set bail or other conditions for the defendant’s release before trial.
- (d) If the defendant refuses to plead to the charges, the judge shall enter a plea of not guilty on the defendant’s behalf.

10.08.180 Withdrawal of Guilty Plea: A defendant who has pleaded guilty may be allowed to withdraw that plea and substitute a plea of not guilty at any time up to sentencing. If the defendant withdraws his/her guilty plea before the time of the sentencing hearing, the defendant (or the defendant’s advocate) shall notify the court clerk who shall notify the judge and prosecutor.

10.08.190 Bail:

- (a) Every person charged with a criminal offense shall be entitled to release from custody, pending trial unless the court determines:
 - i. That such recognizance will not reasonably assure the defendant's appearance, when required, or
 - ii. That there is a likely danger that the defendant will commit a violent crime, or
 - iii. That there is a likely danger that the defendant will seek to intimidate witnesses, or otherwise unlawfully interfere with the administration of justice.
- (b) If the Court determines that the defendant is not likely to appear if released, the Court may impose such conditions as necessary including:
 - i. Release after deposit of a cash bail (or security or bond issued by a licensed bondsman) with the court;
 - ii. Release conditioned upon a written promise to appear;
 - iii. Release with restrictions on travel or association;
 - iv. Release to the custody of another person; or
 - v. Release on any condition deemed reasonably necessary to assure the appearance of the defendant.
- (c) The Court shall prepare a bail schedule for offenses in the Tribal code, subject to the approval of Tribal Council, which shall be used by the Tribal Police in setting the amount of cash bail required for defendant's release.
- (d) This rule shall also govern defendants convicted of an offense in Tribal Court who have filed a notice of appeal or petition for release. The judge may refuse to release the defendant if it appears that release will result in danger to the community or to any person or that no conditions of release can reasonably guarantee the convicted person's reappearance.
- (e) If the defendant has been released on the defendant's own recognizance, on bail, or has deposited money instead thereof, and does not appear when the defendant's personal appearance is necessary or violates conditions of release, the court, in addition to the forfeiture of the recognizance, or of the money deposited, may direct the clerk to issue a bench warrant for the defendant's arrest.

10.08.200 Pre-trial Conferences: When a plea of not guilty is entered, the court may set a time for a pretrial hearing. The time set for the pretrial hearing should allow

sufficient time for the parties to initiate and complete discovery, conduct further investigation of the case as needed, and continue plea discussions.

10.08.210 Pre-Trial Motions: Absent agreement or a Court order to the contrary, and except for motions made during and as a consequence of events at a trial or other hearing, the moving party shall serve and file all criminal motion documents no later than six (6) court days before the date the party wishes the motion to be considered.

- (a) The time and date for hearing shall be scheduled in advance by the moving party by contacting the clerk prior to filing the motion.
- (b) The moving party should coordinate with the opposing party, prior to scheduling a hearing. Such coordination may take place by telephone or electronic communication. Both parties shall cooperate and act in good faith in scheduling.
- (c) Any party opposing a motion shall file and serve the original responsive papers in opposition to a motion, serve copies on parties, and deliver working copies to the court no later than 12:00 noon two (2) court days before the date the motion is to be considered.
- (d) Any documents in strict reply shall be similarly filed and served no later than 12:00 noon on the court day before the hearing.

10.08.220 Testing for HIV

- (a) Within forty-eight (48) hours following the filing of a complaint alleging a crime in which by force or threat of force the defendant compelled the victim to engage in sexual activity, the Tribe may motion the court, at the request of a victim, to require the defendant submit to testing for the human immunodeficiency virus (HIV); and
- (b) As soon as reasonably practicable following receipt of the test results stemming from the testing in subsection (a), the Tribe shall notify victim (or parent and guardian) and the defendant of said results; and
- (c) The Tribe may motion the court for follow-up tests as may be medically appropriate, and that as soon as reasonably practicable thereafter, notify the victim (or parent and guardian) and the defendant of said results.

10.08.230 Affidavit of prejudice: Any party may establish such prejudice by motion, supported by affidavit that the judge before whom the action is pending is prejudiced against such party, so that such party believes that he or she cannot, have a fair and impartial trial before such judge, provided that:

- (a) Such motion and affidavit is filed and called to the attention of the judge before the judge shall have made any ruling whatsoever in the case, either on the motion of the party making the affidavit, or on the motion of any other party to the action, of the hearing of which the party making the affidavit has been given notice, and before the judge has made any order or ruling involving discretion (the arrangement of the calendar, the setting of an action, motion or proceeding down for hearing or trial, the arraignment of the accused in a criminal action or the fixing of bail, shall not be construed as a ruling or order involving discretion within the meaning of this provision);
- (b) Such motion and affidavit shall be filed not later than the day on which the case is called to be set for trial:
- (c) Notwithstanding the filing of such motion and affidavit, if the parties shall, by written stipulation agree, such judge may hear argument and rule upon any preliminary motions, or other matter thereafter presented
- (d) No party or advocate shall be permitted to make more than one such application in any action or proceeding.

10.08.240 Time of Trial: Every defendant charged with a criminal offense has a right to a speedy trial. Absent good cause, a trial shall be held within ninety (90) days of the arraignment. In the case of such a request for delay, the judge may order a continuance of the trial date telephonically.

10.08.250 Joining or Separating Defendant's Trials:

- (a) At arraignment, the judge may order two or more defendants to be tried together if they are charged with offenses based on the same event or interrelated series of events. All defendants shall be given adequate notice that they will be tried together.
- (b) Defendants shall not be tried together if a joint trial would prejudice the ability of any defendant to present a defense or would prejudice the tribe's ability to present its evidence.

10.08.260 Discovery:

- (a) Upon request of the defendant, at or before trial, the Tribe shall provide the defendant the following:
 - i. The names of witnesses the Tribe intends to present;
 - ii. Copies of, or controlled access to any documents, photographs, results, and reports of examinations or tests, and objects which are within the custody and control of the Tribe and which the Tribe

intends to use as evidence against the defendant or which may be relevant to the defendant's defense, including any information or material which tends to negate the defendant's guilt;

iii. Copies of written summaries of any statements made by defendant, which the Tribe intends to offer as evidence against the defendant.

- (b) If the defendant requests information as provided in section (a) of this rule, then defendant shall inform the prosecutor, upon the Tribe's request, of the names of defendant's witnesses and of the general nature of the defendant's defenses.
- (c) Nothing in this rule shall require a party to provide the other with reports, memoranda, or other internal communications, which were made by the party (or the party's advocate) solely in preparation for trial, except items specifically listed in this rule.
- (d) A party who receives a request for information under this rule shall respond either with the information, with an indication when and where the information will be made available, or with an objection to the request within ten (10) days after he or she receives the request. Failure to respond is grounds for a court order requiring response, excluding the testimony under the circumstances, including imposition of reasonable conditions on the release of the information requested.

10.08.270 Order of Trial: Absent court order or agreement, evidence and arguments should be presented at trial in the following general order:

- (a) Opening statements. The Tribe shall have the first opportunity to summarize evidence the Tribe will present, and arguments the Tribe will make. The defendant may then make a similar summary or may reserve an opening statement until the close of the Tribe's case in chief. The defendant may also waive the right to make an opening statement.
- (b) Tribal Presentation. The Tribe shall present all evidence in support of the charges. The defendant shall have the right to object to evidence presented and to cross-examine witnesses, but shall not present his or her own evidence at this time.
- (c) Defense presentation. The defendant (or advocate) may present all evidence in opposition to the charge by the Tribe. The defendant (or advocate) may also motion for dismissal. The Tribe may object to evidence presented and to cross-examine witnesses.
- (d) Rebuttal. After each party presents evidence, the judge may allow the Tribe to present evidence intended to rebut directly any evidence

presented by defendant. The judge may allow either side to present evidence, which was mistakenly left out or unavailable earlier in the trial.

- (e) Closing arguments. At the close of trial, both parties shall have the right to make closing statements in which they argue the law, interpret the evidence, and summarize the case as they see it. Presentation of additional evidence is not appropriate at this time.

10.08.280 Burden of Proof: The Tribe shall prove every element of a crime beyond reasonable doubt.

10.08.290 Presence of Defendant: The defendant shall be present at all proceedings on criminal charges, unless the judge permits otherwise. The defendant may be present by way of video (or similar technology). Notwithstanding the foregoing, the defendant may, but is not required, to testify at trial.

10.08.300 Jury Trials (*For jail sentence in excess of six (6) months*):

- (a) Absent a voluntary, knowing and intelligent waiver to the contrary, every person accused of a crime, which carries a possible jail sentence in excess of six (6) months under the Nooksack Tribal Code, has the right to trial by a six-member jury. A judge shall hear all criminal cases for which a right to a jury trial does not apply.
- (b) Except for persons identified in subsection (c), every Nooksack Tribal member on the Tribe's voting list who resides or is domiciled in Whatcom County, and such other Nooksack Tribal members who wish to be included in the general jury pool shall be eligible to serve as jurors. Nooksack Tribal members who reside or are domiciled outside Whatcom County shall contact the court clerk to notify the Court of their desire to be included on any potential jury pool.
- (c) Nooksack Tribal law enforcement officers, Tribal Council members and Tribal members who are mentally or physically unable to perform a juror's duties are deemed ineligible to serve on a jury and shall not be summoned.
- (d) The clerk of the court shall establish and maintain a current roster of persons eligible to serve as jurors.
- (e) When a defendant requests a jury, the clerk shall draw the names of 21 persons by lot from the roster. The clerk shall then send a summons to each person whose name is drawn, ordering the person to appear in court at the time set for trial of the case. The summons shall give the names of all defendants. The summons shall be sent no later than ten (10) days

before the trial date. The judge may excuse any person from jury service if the person demonstrates hardship or other good cause to be excused.

- (f) Of the potential jurors who are not excused from serving, the judge shall dismiss any person who is a close relative of a party (or an advocate) in the case and any person who cannot try the issue impartially and without prejudice to the substantial rights of the party challenging. In order to determine whether a juror may be prejudiced, the judge shall question the prospective juror and may allow the parties a chance to question the juror, then set forth the challenge.
- (g) After jurors are dismissed under subsection (f) of this rule, each party may dismiss, without stating a reason, half the pool of jurors in excess of six (6). This shall be done in a way that does not reveal, which party dismissed any juror. If an odd number of jurors are left, the judge shall dismiss the last one. If fewer than six (6) persons are left, the trial shall be postponed until the clerk can summon twelve (12) more eligible Tribal members as provided in subsection (e) of this rule.
- (h) Jury Instructions: Each party may file and serve upon the opposing party, a set of proposed jury instructions. Prior to instructing the jury and outside of the jury's presence, the court shall permit objection(s) to the proposed instructions of the other party and make rulings thereupon.
- (i) The jury shall hear the evidence provided at trial. At the close of presentations, the judge shall explain to the jury what the law is and shall instruct the jury to decide what the facts are in light of the law as explained.
- (j) The jury shall discuss the case in secret until at least 5 of the 6 members agree on a verdict. If the jury is unable to agree on a verdict, the judge shall dismiss the jury; however, if the jury votes unanimously to acquit the defendant, the judge may dismiss the charges and forbid the tribe to refile the charges. Otherwise, upon the tribe's request, the judge shall order that a new jury be summoned and a new trial be held.
- (k) Every person who is called for jury service may be paid for reasonable costs of traveling to court plus \$10 for every day that he or she sits as a juror. These costs may be included in the court costs awarded against a defendant who is found guilty.

10.08.310 Verdict:

- (a) At the end of the trial, the judge or the jury shall announce a verdict of guilty or not guilty on every charge against the defendant.

- (b) If a verdict of not guilty is announced, the judge shall record that defendant was acquitted, the clerk shall enter the acquittal in the official record along with the names of the jurors in the case, and the defendant shall immediately be released from custody if so held.
- (c) If a verdict of guilty is announced, the judge shall set a time for sentencing. If all parties agree, sentencing may take place immediately.

10.08.320 Sentencing:

- (a) Within a reasonable time after the defendant is convicted or pleads guilty, the judge shall order and impose a sentence.
- (b) Each party may provide the judge any information, relevant to sentencing. Relevant information may include the circumstances of the offense, the defendant's previous offenses, employment history, social history, attitude, needs, potential, and tribal customs and traditions.
- (c) Upon setting a penalty, the judge shall sign and file with the clerk a written judgment. The judgment shall state the defendant's name, the offense charged, the verdict, and the sentence.
- (d) The clerk shall receive and record all fines paid and record the evidence of completion of any other part of the sentence. When the sentence is fully carried out, the clerk shall note that fact and close the file. If the sentence is not carried out within a timely manner, the clerk shall notify the prosecutor and probation officer.
- (e) At sentencing, the judge shall inform the defendant of the right to request a new trial, the right to appeal, and the time limits for exercising these rights.

10.08.330 Motion for New Trial:

- (a) A defendant may move the court for a new trial within seven (7) days after sentencing upon a showing that a substantial right of the defendant was materially affected by:
 - i. The jury's receipt of evidence, paper, document or other information not allowed by the Court;
 - ii. Newly discovered evidence, which was not discoverable at or before the time of the trial;
 - iii. Error of law occurring at the trial (or prior to) and objected to by the defendant at the time of the error;
 - iv. Any other substantial miscarriage of justice.

- (b) If a new trial is granted, the judge shall state, in writing, the legal and/or factual basis therefore, whether within or outside the record, upon which his or her decision is based.

10.08.340 Right to Appeal:

- (a) All persons who are found guilty by a judge or jury shall have the right to appeal the verdict, the sentence or both by filing a notice of appeal with the Tribal Court within thirty (30) days after entry of judgment.

CHAPTER 9

WRIT OF HABEAS CORPUS

10.09.010 Who May Prosecute Writ: Every person imprisoned or otherwise restrained of his liberty within the jurisdiction of the Nooksack Tribe, or by order of the Nooksack Tribal Court, may petition for a writ of habeas corpus to inquire into the reasons for the imprisonment or restraint. If those reasons are found to be illegal the Petitioner shall be released from custody by order of the court.

10.09.020 Application for Writ: Application for the writ is made by petition, signed either by the Petitioner for whose relief it is intended, or by the Petitioner's advocate. The writ must include:

- (a) A statement that the Petitioner is unlawfully imprisoned or restrained of her or his liberty and a statement specifying why the Petitioner believes the imprisonment or constraint is unlawful;
- (b) The law enforcement officer or other person by whom the Petitioner is confined or restrained, naming all the parties responsible for the Petitioner's confinement if they are known, or describing unnamed parties responsible if they are not known;
- (c) The place of confinement; and
- (d) The verification by the oath or affirmation of the Petitioner making the application.

10.09.030 Issuance of Writ:

- (a) Upon a showing that no legal cause exists for the restraint or for the continuation thereof, the Court shall issue the writ and discharge the Petitioner.
- (b) The writ shall direct the law enforcement officer or other person having custody of or restraining the Petitioner to bring the Petitioner before the Tribal Court at a time and place specified in the writ.
- (c) The issue or issues to be determined upon return of the writ may be stated, either in the writ or in an order attached to the writ or in a copy of the petition attached to the writ.

10.09.040 Content of the Writ:

- (a) The writ must be served upon the law enforcement officer or other person to whom the writ is directed and must be served in the same manner as a summons.

- (b) The writ shall be delivered by any other tribal law enforcement officer or by anyone authorized by the judge; or, if the person cannot be served within the territorial jurisdiction of the court, by certified mail, return receipt requested.
- (c) The writ may be delivered personally by giving it to the law enforcement officer or other person directly, or by leaving it at the law enforcement officer's or other person's residence or workplace with a person at least 14 years old who lives or works there.
- (d) The person who delivers the writ shall promptly file with the court clerk a copy of the writ and a written statement describing when, where and how the delivery was made.
- (e) In the case of writs delivered by mail, the clerk shall file the return receipt and a written signed statement describing when and to whom the writ was mailed.

10.09.050 What to Contain: The law enforcement officer or other person to whom the writ is directed shall make immediate return thereof, and if he or she refuses after due service to make return, the court shall enforce obedience by attachment. The return must be verified and state:

- (a) Whether the Petitioner is in the law enforcement officer's or other person's custody or under her or his power or restraint and the authority for so holding the Petitioner and
- (b) If the Petitioner was previously, but is no longer in the law enforcement officer's or other person's custody, control or restraint, the return must state particularly to whom, at what time and place, for what cause, and by what authority custody was released.

10.09.060 Hearing on Return: The Petitioner shall be brought before the court by the person to whom the writ is directed, unless the person to whom the writ is directed is not available and delegates another person to take her or his place.

- (a) The hearing must be held on the day set and it may be summary in nature.
- (b) Evidence may be produced and compelled as in civil actions.

10.09.070 Judgment:

- (a) If the Petitioner is in official custody, the Petitioner may not be released on a writ of habeas corpus for any technical defect in commitment, which does not affect a substantial right of the Petitioner.

- (b) Following the hearing, the judge or other judicial officer shall make such judgment regarding the custody of the Petitioner as the facts and circumstances warrant and the order shall be effective immediately.

CHAPTER 10 ENFORCEMENT OF FOREIGN JUDGMENTS

10.10.010 Washington Court Judgments: The judgments of a Washington State Court shall have full faith and credit in this Court, provided that:

- (a) The applicable Washington State Court has not declined reciprocal full faith and credit to the judgments of this Court; and
- (b) The person seeking full faith and credit complies with the conditions and procedures set forth in § 10.10.050.

10.10.020 Tribal Court Judgments: The judgments of another tribal court of a federally recognized tribe shall have full faith and credit in the Court of the Tribe, provided that:

- (a) The applicable Tribal Court has not declined reciprocal full faith and credit to the judgments of this Court; and
- (b) The person seeking full faith and credit complies with the conditions and procedures set forth in § 10.10.050.

10.10.030 All Other Courts: The judgments of a United States Federal Court, courts of foreign countries, or the court in a state other than Washington may have, in the discretion of this Court, full faith and credit, provided that:

- (a) The applicable court has not declined reciprocal full faith and credit to the judgments of this Court; and
- (b) The person seeking full faith and credit complies with the conditions and procedures set forth in § 10.10.050.

This Court shall have full discretion as to whether full faith and credit shall be granted and shall be guided by the best interests of the Tribe and parties, as well as the other provisions of this Title.

10.10.040 Application of Full Faith and Credit to Final and Conclusive Judgments: In accordance with the full faith and credit provisions set forth in 10.10.010 through 10.10.030, a foreign judgment that is final and conclusive is enforceable in this Court pursuant to 10.10.050.

10.10.050 Registration of Foreign Judgment: A person seeking enforcement of a foreign judgment shall file:

- (a) A copy of the foreign judgment, which has been authenticated by the clerk or registrar of the foreign court in the following manner:

Title 10 – Tribal Court System and Court Rules
Amended by Res. #23-034, dated March 7, 2023

1. The clerk or registrar of the foreign court must attest in writing that she or he:
 - (i) is the clerk or registrar of the subject foreign court;
 - (ii) is the custodian of the records of the subject foreign court; and
 - (iii) has compared an annexed copy of the foreign judgment from the case with the original(s) on file and of record in the foreign court, and has found the copy of the foreign judgment to be a true copy of the whole of such original(s).
2. Upon completing the written attestation referenced above, the clerk or registrar of the foreign court must:
 - (i) sign and date said attestation;
 - (ii) affix the seal of the foreign court to said attestation; and
 - (iii) annex a true copy of the foreign judgment to said attestation.
- (b) A sworn affidavit by the judgment creditor, or his lawyer or lay advocate, which includes the following:
 1. the name and last known post office address of the judgment debtor and the judgment creditor;
 2. that the judgment is final and that no appeal is pending;
 3. that no subsequent orders vacating, modifying or reversing the judgment have been entered in the rendering jurisdiction; and
 4. proof that the person against whom the foreign judgment has been rendered (i.e., judgment debtor) is subject to the jurisdiction of this Court with regard to enforcement of said judgment.
- (c) A filing fee for registering said foreign judgment in the amount of forty dollars (\$40.00).

10.10.060 Notice of Registration of Foreign Judgment: Upon the filing of the foreign judgment, attestation, affidavit and filing fee, the clerk of the Court shall promptly mail notice of the filing of the foreign judgment along with a copy of the foreign judgment, attestation, and affidavit referenced in § 10.10.050 to the judgment

debtor at the address provided by the judgment creditor, and shall make a note of the mailing in the docket and/or complete a proof of mailing. The notice to the judgment debtor shall include the following:

- (a) the name and post office address of the judgment creditor and the judgment creditor's lawyer or lay advocate, if any, in this Court; and
- (b) a directive that an order entering the enforcement of the foreign judgment shall be entered by the Court within twenty-one (21) days of the same having been served on the judgment debtor, unless the judgment debtor files written objections with the Court along with a request for a hearing on the same within said twenty-one (21) day period.

In addition, the judgment creditor shall also mail a notice of the filing along with a copy of the foreign judgment, attestation, and affidavit referenced in § 10.10.050 to the judgment debtor and shall file proof of mailing with the Clerk of the Court. Such notice shall be served on the judgment debtor in a manner consistent with the proof of service provision set forth in this Title.

10.10.070 Objections; Hearing; Entry of Order Where Objections: In the event that the judgment debtor files written objections within the twenty-one (21) day period set forth above along with a request for a hearing, the clerk of the Court shall send by first-class mail a copy of said objections to the judgment holder or her or his advocate. In addition, the clerk of the Court shall send by first-class mail a notice of hearing setting forth the date and time of hearing to the judgment holder and judgment debtor, or their respective lawyer(s) or lay advocate(s). The judgment debtor at the hearing will be required to show cause why the foreign judgment shall not be enforced by this Court. At the scheduled hearing, after reviewing all the relevant evidence concerning the foreign judgment, the Court shall issue an order either granting or denying enforcement of the foreign judgment.

10.10.080 Entry of Order Where no Objections: In the event that the judgment debtor does not file any written objections within the twenty-one (21) day period set forth in above, an order granting the enforcement of the foreign judgment shall be issued by the Court.

10.10.090 Not Enforceable or Non-recognizable Foreign Judgment: A foreign judgment is not enforceable or is non-recognizable under the following circumstances, including but not limited to:

- (a) the judgment was rendered by a process that does not assure the requisites of an impartial administration of justice including but not limited to due notice and a hearing;
- (b) the foreign court did not have both personal jurisdiction over the judgment debtor and the jurisdiction over the subject matter;

- (c) the judgment was obtained by fraud;
- (d) the cause of action on which the judgment is based is repugnant to the public policy or tribal customs of the Tribe;
- (e) the judgment involves enforcement of child custody provisions, and
 - 1. the foreign court did not have jurisdiction over the child(ren); or
 - 2. the provisions of the Indian Child Welfare Act [25 USC §§ 1901-1963], if applicable, were not properly followed; or
 - 3. due process was not provided to all interested persons participating in the foreign court proceeding; or
 - 4. the foreign court proceeding violated the public policies, customs or common law of the Tribe.

10.10.100 Appeal; Stay of Execution; Stay of Proceedings: If the judgment debtor satisfies the Court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the Court may stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.

10.10.110 Post-judgment Proceedings regarding Foreign Judgment; no Waiver of Immunity:

- (a) The entry of the order enforcing the foreign judgment by this Court shall entitle the judgment holder to enforce its judgment against the judgment debtor in any manner currently available for judgment creditors or judgment holders in this Title.
- (b) The Tribe does not waive its immunity from suit with regard to the enforcement of a foreign judgment in any post-judgment proceedings, even when said Tribe is served as a garnishee Defendant for the wages or property of an employee who is a judgment debtor.

10.10.120 Child Support Orders: Nothing in this Title shall alter the obligations of the Court with regard to child support orders as required by federal law pursuant to 28 U.S.C.A. § 1738B.

CHAPTER 11 NAME CHANGES

- 10.11.010 Petition for Name Change.
Any person desiring a change of his or her name or that of his or her child or ward, may apply therefor to the Tribal Court, by petition setting forth the reasons for such change; thereupon the Court in its discretion may order a change of the name and thenceforth the new name shall be in place of the former.
- 10.11.020 Petition on Behalf of Minors.
An applicant who petitions the Court for a change of name of a minor shall also file:
- (a) A certified copy of any minor applicant's birth certificate;
 - (b) A copy of any minor applicant's tribal identification; and
 - (c) Verified affidavit of the non-petitioning Parent consenting to the name change. In the absence of verified affidavit by the non-Petitioner parent, the Court may grant the petition if such action would be in the best interests of the child and the nonconsenting parent has received notice of the hearing on the petition.
- 10.11.030 Filing Fee.
There shall be a filing fee paid prior to the filing of each petition for a name change. The fee shall be \$150.00 and Tribal Council, or its designee, shall have the authority to increase or decrease said fee following notice and publication of the fee change for no fewer than thirty (30) calendar days.
- 10.11.040 Notice of Hearing.
Following the filing of a Petition for Name Change of a Minor wherein both parents do not consent or a verified consent is not filed, the Clerk shall issue a Notice of Hearing to the Petitioner for a date no sooner than twenty (20) days following the filing of a Petition.
- 10.11.040 Notice of Petition.
In the event that both parents do not consent to the name change of a minor, or one of the parents cannot be located or is otherwise unavailable to obtain a verified consent, the Petitioning Parent shall serve the non-Petitioning parent with the Petition and a Notice of Hearing no sooner than twenty (20) days prior to the hearing. The Petitioning Parent shall file proof of service with the Court. The Court may continue a hearing as necessary in order for the Petitioning Parent to provide the Court with a valid proof of service on the non-Petitioner Parent.

- 10.11.050 Sealing Records.
Upon request by a victim of domestic violence as defined in Title 20A, wherein the petitioning party seeks a name change file sealed due to reasonable fear for his or her safety or that of his or her child or ward, the Court shall seal the file if the Court finds that the safety of the person seeking the name change or his or her child or ward warrants sealing the file.
- In all cases filed under this subsection, whether or not the name change petition is granted, there shall be no public access to any court record of the name change filing, proceeding, or order, unless the name change is granted but the file is not sealed.
- 10.11.060 Hearing.
The Court may hold such hearings as are necessary to ensure the provisions of this Chapter are satisfied.
- 10.11.070 Order Following Hearing.
The Tribal Court shall have the discretion to grant or deny a petition filed hereunder except that the Court shall not grant a petition when the individual seeking a name change is:
- (a) a registered sex offender;
 - (b) currently under the jurisdiction of the Department of Corrections;
- 10.11.080 Notice of Order.
The Tribal Court shall file a copy of any order issued pursuant to this Chapter with the Tribal Enrollment Office.
- 10.11.090 Other Proceedings.
The enactment of this Chapter shall have no effect on the validity of such other Title provisions or court proceedings in effect at the time of this enactment, and the Court's powers pursuant thereto shall remain valid and any orders issued pursuant to such provisions shall remain valid.
- 10.11.100 Forms.
The Tribal Court shall have the authority to establish any and all necessary forms for the purpose of petitioning the Tribal Court for a name change pursuant to this Chapter.

CHAPTER 12

FORFEITURE PROCEEDINGS

10.12.010 Applicability and General Provisions.

- (a) The provisions of this chapter shall apply to:
 - 1. Property expressly identified in this chapter;
 - 2. Forfeiture in civil proceedings where the relevant code expressly adopts this chapter by reference; and
 - 3. Forfeiture in civil proceedings where the relevant code does not establish alternative procedures.
- (b) If any provision of this chapter is found to conflict with or be inconsistent with a provision of another section of the Nooksack Tribal Code, the provisions of this chapter shall control.

10.12.020 Subject Property. The following shall be subject to forfeiture to the Nooksack Tribes and no property right shall exist in them:

- (a) All controlled substances or listed chemicals, which have been manufactured, distributed, dispensed, acquired, transported, or possessed in violation of Tribal law;
- (b) All raw materials, plants, products, and equipment of any kind, which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance or listed chemical in violation of Tribal law;
- (c) All property which is used, or intended for use, as a container for property described in subsection (1) or (2) of this section;
- (d) Any drug paraphernalia as defined by Tribal law;
- (e) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in subsection (1) or (2) of this section, except that no conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to the conduct giving rise to the forfeiture action;

- (f) All books, records, microfilm, tapes, electronic devices, digital storage media, and research, including formulas and data, which are used, or intended for use, in violation of Tribal law;
- (g) All monies, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance or listed chemical in violation of Tribal law, all proceeds traceable to such an exchange, and all monies, negotiable instruments, and securities used or intended to be used to facilitate such an exchange;
- (h) Any Deadly Weapon, as defined by Nooksack Tribal Code, Title 20;
- (i) Any instrumentality used, or intended to be used, in any manner or part, to commit, or to facilitate, the commission of any crime, whether prosecuted civilly or criminally, as defined by Nooksack Tribal law;
- (j) Any property expressly subject to seizure or forfeiture under any other provision of Nooksack Tribal law that adopts this chapter by reference; and
- (k) Any item that is unlawful to possess or own pursuant to Tribal law.

10.12.030 Custody of Nooksack Tribe. Property taken or detained by Nooksack Law Enforcement shall be deemed to be in the legal custody of the Nooksack Indian Tribe, subject only to the orders and decrees of the Nooksack Tribal Court. Whenever property is seized under any of the provisions of this chapter, the Tribe may:

- (a) Place the property under seal;
- (b) Remove the property to a designated place to be preserved for purposes of discovery and use as evidence in a proceeding under this chapter or in any criminal proceeding; or
- (c) Remove it, if practicable, to an appropriate location for disposition in accordance with an order of the Tribal Court.

10.12.040 Summary Forfeiture.

- (a) Any property seized pursuant to this chapter or other Tribal law is subject to summary forfeiture, but shall be preserved for purposes of discovery and use by the parties in potentially related proceedings until such time as the Court issues an order disposing of such proceeding or proceedings.

- (b) Prior to disposing of any property seized, the Tribe shall provide Notice of Intent to Forfeit to the owner of the property, if known. The notice must:
 - 1. Describe the property seized;
 - 2. State the time, cause, and place of seizure; and
 - 3. Provide the owner thirty (30) calendar days to file a claim with the Tribe' Office of Tribal Attorney contesting the seizure and forfeiture.
- (c) The notice required under subsection (b) shall be served:
 - 1. At the time of seizure; or
 - 2. By personal service on any owner whose name and address is known to the Nooksack Tribes.
 - 3. If service at the time of seizure or personal service cannot be made for any reason, the notice may be served by publication by posting on the Tribes' official government forfeiture web site for at least thirty (30) consecutive calendar days.
- (d) If an owner files a claim to any property subject to this section, the Tribe shall initiate a non-summary forfeiture action as provided in this Chapter.

10.12.050 Non-Summary Forfeiture. Any property seized for which a claim is filed pursuant to N.T.C. 10.12.040, is subject to the following procedures:

- (a) Petition and Summons. Within forty-five (45) days of the Filing of a Claim pursuant to N.T.C. 10.12.040, the Tribe shall file a petition and summons to institute forfeiture proceedings with the Court. The petition shall include the following:
 - 1. A description of the property seized;
 - 2. The time, date, and location of the seizure;
 - 3. The relevant provisions of the Nooksack Tribal Code that subject the property to seizure and forfeiture;
 - 4. The name and address if known of the person or persons from whom the property was seized;

5. The names and addresses of any other persons whom the Tribe knows or has reason to believe have or may assert a property interest in the property seized; and

(b) Service of Petition and Summons.

1. Within twenty (20) days from the date of filing the summons, the Tribe shall cause the petition and summons to be served upon all known owners or claimants of the property by personal service or certified mail, return receipt requested.
2. Where the identity or the mailing address of an owner or claimant is not known, the petition and summons may be served by publication by posting them on the Tribe's official government forfeiture website for at least thirty (30) consecutive calendar days.
3. The Tribe shall file proof of service with the Court no later than five (5) days after the petition and summons have been served.

(c) Failure to Timely Proceed.

1. Property seized that is not unlawful to possess or own and is no longer necessary to preserve for purposes of discovery and/or use by the parties in potentially related proceedings shall promptly be released to the owner or person from whom it was seized, if the Tribe fails to file a petition within the time frame allowed or fails to file proof of service within the time frame allowed. Further, the Tribe may not take any further action to effect the civil forfeiture of such property in connection with the underlying offense.
2. Notwithstanding subsection (c)(1), if there are multiple owners or claimants and service has been perfected as to at least one of the owners or claimants, then the forfeiture action may proceed on the condition that the Court provide such additional process, remedy or relief as necessary to protect the interests of any owner or claimant who was not timely served.

(d) Response. Within thirty (30) days after the service of the petition and summons, the owner or claimant of the seized property (hereinafter "respondent") shall file a response to the petition to institute forfeiture proceedings. The Court shall not extend the time for filing a response absent a showing of extraordinary circumstances. The response:

1. Must include the respondent's name and a legal address for purposes of service;

2. Must identify the specific property being claimed;
 3. Must state the respondent's interest in the property being claimed;
 4. Must provide the name and address of any other person the respondent knows or has reason to believe has or might assert an ownership interest in the property;
 5. Must set forth the facts establishing the ownership of the property;
 6. May set forth all defenses to be asserted to the petition;
 7. May include declarations and documentary evidence to be offered in support of the assertions made in the response;
 8. May include a motion for a hearing; and
 9. Must be made under oath, subject to penalty of perjury.
- (e) Service of Response. The response shall be served on the Tribe within five (5) days of the filing date by providing a copy by mail or by personal service to the Nooksack Office of Tribal Attorney. The Respondent shall file proof of service with the Court no later than five (5) days after the response has been served.
- (f) Failure to Timely Respond. If a response is not filed within thirty (30) days after the service of the petition and summons, if the response is not timely served on the Tribe, or if proof of service of the response is not timely filed with the Court, the Tribe shall file a declaration of forfeiture with the Court, and the Court shall thereupon issue an order forfeiting the property to the Tribe.
- (g) Requests for an Evidentiary Hearing. No later than ten (10) days following the timely filing of a response, the Tribe may file a motion for an evidentiary hearing. The Court shall promptly issue an order granting a request for an evidentiary hearing made by the Tribe. A respondent may only request an evidentiary hearing as provided for in subsection (d). No other motion or form of request for an evidentiary hearing by a respondent is allowed. If a respondent does request an evidentiary hearing as provided for in subsection (d), the Court shall promptly issue an order granting that request.
- (h) Trial by Declaration. If a response is timely filed and served, the response does not request an evidentiary hearing, and the Tribe does not file a motion for an evidentiary hearing within the time allowed in subsection (g), then the matter shall be decided by a trial by declaration as set forth herein.

1. Within ten (10) days of receipt of service of a response, the Tribe shall file a legal memorandum supported by a declaration presenting all the evidence the Tribe intends to rely upon with the Court. The Tribe shall serve copies of its legal memorandum, declaration, and evidence on each respondent by certified mail, return receipt requested, on or before the date the Tribe files them with the Court. The Tribe shall file proof of service with the Court at the time it files its memorandum, declaration, and evidence.
 2. Within ten (10) days of receipt of service of the Tribe's legal memorandum, declaration and evidence, each respondent may file with the Court a legal memorandum supported by a declaration presenting any evidence the respondent intends to rely upon that was not filed with the response. Each respondent shall serve copies of its legal memorandum, declaration and evidence on petitioner and each of the other respondents, if any, by certified mail, return receipt requested on or before the date respondent files them with the Court. Each respondent shall file proof of service with the Court at the time it files its memorandum, declaration, and evidence.
 3. Within ten (10) days of receipt of service of any legal memorandum, declaration, and evidence filed by any respondent, the Tribe may file a reply presenting additional legal argument, additional evidence, or both.
 4. No hearing of live witness testimony or examination, and no oral argument on the merits or on any motion, shall be allowed.
 5. The Court shall timely issue a written decision resolving all claims based exclusively on the petition, response, reply, and any legal memoranda, declarations and evidence filed in conformance with these rules.
- (i) Forfeiture Hearing. If a response is timely filed and served and includes a request for an evidentiary hearing, or the Tribe timely files a request for an evidentiary hearing, the Court shall set the matter for a hearing no later than forty-five (45) days from the date the Court received the request for hearing. The hearing, including notice, service, discovery, motions, and any other procedural matters, shall be conducted according to the civil rules, except where the civil rules conflict with any provision within this chapter, including the following:
1. No jury shall be allowed.

2. Discovery may be had without leave of Court in regards to physical and documentary evidence, witness lists, and requests for admission.

3. Interrogatories, depositions, and other forms of discovery shall be had only by leave of the Court.

(j) Burden of Proof. In any action brought under this section, the Tribe shall establish, by a preponderance of the evidence, that the property is subject to forfeiture. The Tribe may use evidence gathered after the filing of a petition for forfeiture to establish that the property is subject to forfeiture.

(k) Innocent Owner – Affirmative Defense. An innocent owner’s interest in property shall not be forfeited and shall constitute an affirmative defense. The respondent shall have the burden of proving that the respondent is an innocent owner by a preponderance of the evidence. The term “innocent owner” means an owner who:

1. Did not know of the conduct giving rise to forfeiture; or

2. Upon learning of the conduct giving rise to the forfeiture, did all that reasonably could be expected under the circumstances to terminate such use of the property.

10.12.060 Additional Authority of the Court. Upon application of the Tribe, and findings by the Court that the Court has jurisdiction over the subject property, there is probable cause to believe the property is subject to forfeiture to the Tribe, and good cause exists to grant the relief requested in the application, the Court may enter a restraining order or injunction; require the execution of satisfactory performance bonds; create receiverships; appoint conservators, custodians, appraisers, accountants, or trustees; issue a writ of entry; or take any other action to seize, secure, maintain, or preserve the availability of property subject to civil forfeiture or protect public health, welfare, or safety.

10.12.070 Release of Seized Property. Property seized that is not unlawful to possess or own and is no longer necessary to preserve for purposes of discovery and/or use by the parties in potentially related proceedings may be released to a respondent prior to forfeiture by order of the Court.

(a) A respondent seeking release of property must file a request for release of the property with the Court within thirty (30) calendar days of respondent’s receipt of Notice of Intent to Forfeit or service of the petition for forfeiture. The request for release of property must be served on the Tribe on or before the date the request is filed with the Court, and proof of service shall be filed with the request.

- (b) The Court shall hold a hearing on the request for release within fourteen (14) days. Notice of the hearing shall be provided to the Tribe and every respondent.
- (c) The Court shall deny the request for release if the seized property:
 - 1. Is contraband, currency, other monetary instrument, or electronic funds, unless such currency or other monetary instrument or electronic funds constitutes the assets of a legitimate business which has been seized;
 - 2. Is to be used as evidence in any proceeding;
 - 3. By reason of design or other characteristic, is particularly suited for use in illegal activities;
 - 4. Is likely to be used to commit additional violations of the law if returned to the respondent; or
 - 5. Is likely to harm or prejudice the interests of another respondent claiming an ownership interest in the property.
- (d) The Court shall grant a request for release of property only if the Court finds:
 - 1. The respondent has a possessory interest in the property;
 - 2. The respondent has sufficient ties to the community to provide assurance that the property will be available at any time the Court deems necessary;
 - 3. In the case of weapons, the person requesting release is not a threat to any known individual or to the safety or welfare of the public at large;
 - 4. The continued possession by the Tribe pending the final disposition of forfeiture proceedings will cause substantial hardship to the respondent, such as preventing the functioning of a business, preventing an individual from working or attending school, preventing an individual from making a subsistence living, or leaving an individual homeless; and
 - 5. The respondent's likely hardship from the continued possession by the Tribe of the seized property outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred

if it is released to the respondent during the pendency of the proceeding.

- (e) The Court may require the posting of a bond and impose any other condition on the release of property that the Court determines in its discretion may be necessary to preserve and secure the property.
- (f) Release of property pursuant to this section shall in no way affect the Tribe's authority to forfeit the property under this chapter.

10.12.080 Frivolous Claims. In any civil forfeiture proceeding in which the Tribe prevails, if the Court finds that a respondent's or claimant's assertion of an interest in the property was frivolous, the Court shall impose a civil fine on the respondent or claimant of an amount equal to 10 percent of the value of the forfeited property, or five hundred dollars (\$500.00), whichever is less.

10.12.090 Motion to Set Aside Forfeiture.

- (a) Any person entitled to written notice under this chapter who does not receive such notice may file a motion to set aside an order of forfeiture with respect to that person's interest in the property, which motion shall be granted if:
 - 1. The Tribe knew, or reasonably should have known, of the moving party's interest and failed to take reasonable steps to provide such party with notice; and
 - 2. The moving party did not know or have reason to know of the seizure within sufficient time to file a timely claim or response.
- (b) Notwithstanding the expiration of any applicable statute of limitations, if the Court grants a motion under subsection (1) of this section, the Court shall set aside the order of forfeiture as to the interest of the moving party without prejudice to the right of the Tribe to commence a subsequent forfeiture proceeding as to the interest of the moving party.
- (c) Any proceeding described in subsection (a) shall be commenced within forty-five (45) days of the entry of the order granting the motion.
- (d) A motion under subsection (a) may be filed not later than one (1) year after the date of final order of forfeiture.
- (e) If, at the time a motion made under subsection (a) is granted, the forfeited property has been disposed of by the Tribe in accordance with Tribal law, the Tribe may institute proceedings against a substitute sum of money

equal to the value of the moving party's interest in the property at the time the property was disposed of.

- (f) A motion filed under this section shall be the exclusive remedy for seeking to set aside an order of forfeiture under this chapter.

10.12.100 Disposition of Forfeited Property.

- (a) Whenever property is forfeited under this chapter, the Tribe 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. Take custody of the property and dispose of it in accordance with law;
 4. If in the possession of another Tribal entity other than the Nooksack Police Department, forward it to the Nooksack Police Department for disposition or destruction; or
 5. Transfer the forfeited personal property or the proceeds of the sale of any forfeited personal property, or a portion thereof, to any other jurisdiction which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer:
 - (i) Has been agreed to by the Tribe; or
 - (ii) Is authorized in an agreement between the Tribe and the other jurisdiction.
- (b) The Tribe may direct the destruction of all contraband in such manner, time, and place as the Tribe deems appropriate.
- (c) The proceeds from any sale hereunder and any monies forfeited under this chapter shall be forwarded to the Accounting Department for deposit into the General Fund.

10.12.110 Vesting of Title. All right, title, and interest in property shall vest in the Nooksack Indian Tribe upon commission of the act giving rise to forfeiture under this section, but the property shall be preserved for purposes of discovery and use by the parties in the forfeiture proceeding and any related proceedings until such time as the Court issues an order of disposition.

10.12.120 Stay of Civil Forfeiture Proceedings.

- (a) Upon the motion of the Tribe, the Court shall stay the civil forfeiture proceeding if the Court determines that civil discovery will adversely affect the ability of the Tribe to conduct a related criminal investigation or the prosecution of a related criminal case.
- (b) Upon the motion of a respondent, the Court shall stay the civil forfeiture proceeding with respect to that respondent if the Court determines that:
 - 1. The respondent is the subject of a related criminal investigation or case;
 - 2. The respondent has standing to assert a claim in the civil forfeiture proceeding; and
 - 3. Continuation of the forfeiture proceeding will burden the right of the respondent against self-incrimination in the related investigation or case.
- (c) With respect to the impact of civil discovery described in subsections (a) and (b), the Court may determine that a stay is unnecessary if a protective order limiting discovery would protect the interest of one party without unfairly limiting the ability of the opposing party to pursue the civil case. In no case, however, shall the Court impose a protective order as an alternative to a stay if the effect of such protective order would be to allow one party to pursue discovery while the other party is substantially unable to do so.
- (d) In this section, the terms “related criminal case” and “related criminal investigation” mean an actual prosecution or investigation in progress at the time at which the request for the stay, or any subsequent motion to lift the stay, is made. In determining whether a criminal case or investigation is “related” to a civil forfeiture proceeding, the Court shall consider the degree of similarity between the parties, witnesses, facts, and circumstances involved in the two proceedings, without requiring an identity with respect to any one or more factors.
- (e) In requesting a stay under subsection (a), the Tribe may, in appropriate cases, submit evidence ex parte and in camera in order to avoid disclosing any matter that may adversely affect an ongoing criminal investigation or pending criminal trial and the Court may take appropriate action.
- (f) Whenever a civil forfeiture proceeding is stayed pursuant to this subsection, the Court shall enter any order necessary to preserve the value of the property or to protect the rights of lienholders or other persons with

an interest in the property while the stay is in effect or make such other orders for compensation as may be required in the interests of justice.

- (g) A determination by the Court that the respondent has standing to request a stay pursuant to subsection (b) shall apply only to this section and shall not preclude the Tribe from objecting to the standing of the respondent by dispositive motion or at the time of trial.
- (h) Any stay issued under this section shall automatically expire thirty (30) days after a final judgment is entered in the related criminal case unless a motion for continued stay pending appeal is filed. If the Court grants a continued stay pending appeal, the stay shall automatically expire thirty (30) days following entry of a final order on the appeal.

CHAPTER 13
SEVERABILITY, AMENDMENTS, PRIOR ENACTMENTS, AND EFFECTIVE DATE

- 10.13.010 Severability: If a court of competent jurisdiction finds any provision of this Title to be invalid or illegal under applicable Federal or Tribal law, such provision shall be severed from this Title and shall not affect the validity of the remainder of this Title as a whole or any part thereof other than the part so declared to be invalid. The remainder of this Title shall remain in full force and effect.
- 10.13.020 Amendments: The Council may amend this Title by a majority vote of a quorum at duly called meeting.
- 10.13.030 Effect on Prior Enactments: As of the date of the enactment of this Title, all prior resolutions or motions enacting and/or amending Title 10, The Tribal Court System and Court Rules or any other Nooksack Tribal Council action affecting the court system, are hereby repealed and shall be of no further force and effect.
- 10.13.040 Effective Date: This Title shall be in full force and effect following its adoption by the Council.

LEGISLATIVE HISTORY

Adopted by Resolution No. 80-312, dated June 9, 1980
Amended by Resolution No. 80-320, dated July 24, 1980
Amended by Resolution No. 80-323, dated August 5, 1980
Amended by Resolution No. 80-324, dated August 5, 1980
Amended by Resolution No. 80-333, dated October 7, 1980
Amended by Resolution No. 80-334, dated November 4, 1980
Recodified by Resolution No. 82-433, dated October 5, 1982
Amended by Resolution No. 02-013, dated March 5, 2002
Amended by Resolution No. 03-101, dated September 2, 2003
Amended by Resolution No. 08-101, dated October 7, 2008
Amended by Resolution No. 13-004, dated February 12, 2013
Amended by Resolution No. 13-138, dated August 30, 2013
Amended by Resolution No. 15-133, dated December 18, 2015
Amended by Resolution No. 16-27, dated February 24, 2016
Amended by Resolution No. 18-115, dated September 11, 2018
Amended by Resolution No. 19-115, dated September 18, 2019
Amended by Resolution No. 20-38, dated March 23, 2020
Amended by Resolution No. 23-033, dated March 7, 2023
Amended by Resolution No. 23-034, dated March 7, 2023



NOOKSACK TRIBAL COUNCIL

4979 Mt. Baker Hwy, Suite G.
PO Box 157
Deming, WA 98244

RESOLUTION #23-034

March 7, 2023

TITLE: END TEMPORARY WAIVER OF TITLE 10 CLERK DUTIES IMPOSED DURING COVID PANDEMIC

WHEREAS, the Nooksack Indian Tribe is a party to the Treaty of Point Elliot dated January 22, 1855, 12 Stat. 927, and is a sovereign, federally-recognized Indian Tribe; and

WHEREAS, the Nooksack Tribal Council is the governing body of the Nooksack Indian Tribe in accordance with Article III, Section 1 of its Constitution and Bylaws approved by the Deputy Assistant Secretary of Indian Affairs on September 24, 1973, as amended; and

WHEREAS, the health, safety, welfare, education, economic security, employment and preservation of cultural and natural resources are primary goals and objectives of the Nooksack Indian Tribe; and

WHEREAS, Council voted by Phone Poll Record on March 23, 2020 to temporarily waive Title 10 Clerk responsibilities during the COVID pandemic period, and to rely on the Chief Judge to take care of all Clerk responsibilities; and

WHEREAS, Council Ratified the temporary waiver Phone Poll Record on April 14, 2020 by Resolution #20-38; and

WHEREAS, the Tribal Court is now fully staffed after COVID pandemic closures, and Clerks/support staff have resumed all their usual duties;

NOW THEREFORE BE IT RESOLVED, Council ends the temporary waiver of Title 10 Clerk responsibilities imposed during the COVID pandemic period; and,

BE IT FURTHER RESOLVED, that the Chairman (or other councilperson in his/her absence) is hereby authorized and directed to execute this resolution and any documents connected here within, and the Secretary (or other councilperson in his/her absence) are authorized and directed to execute the following certification.

CERTIFICATION

Resolution #23-034
Page 1 of 2

Ph: (360) 592-5164  Fx: (360) 592-4506

I, the undersigned do hereby certify that the Nooksack Tribal Council is composed of eight (8) members, of which 8 were present, constituting a quorum of a duly called meeting thereof held on this 7 day of March 2023, and that the above Resolution #23-034 approving the **END OF TEMPORARY WAIVER OF TITLE 10 CLERK DUTIES IMPOSED DURING COVID PANDEMIC** was duly enacted by the Council Members vote of: 7 FOR, 0 OPPOSED, and 0 ABSTENTIONS, and since its approval this resolution has not been altered, rescinded, or amended in any way.

Dated this 7 day of March 2023.



Rosemary LaClair, Chairman
Nooksack Tribal Council

ATTEST:



Frank Leyva, Secretary
Nooksack Tribal Council