

## Chapter 12.12

### SHELLFISH CODE

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#### Subchapter 2. Shellfish Commission

##### **12.12.080 Duties of the Commission.**

The Commission shall be responsible for the implementation of this Code, in conjunction with the Puyallup Tribal Shellfish Department. The Commission shall also propose regulations and amendments of this Code to the Tribal Council for its approval. The Commission's duties include, but are not limited to, the following:

- (a) To develop shellfish regulations, in conjunction with the Tribal shellfish biologist(s) and Shellfish Director.

- (b) To analyze data concerning the management of the shellfish resource including, but not limited to, conservation, sanitation, and enhancement needs.
- (c) To act as an advisory body to the Council and Shellfish Director on all issues concerning the regulation, conservation, and enhancement of the Tribal shellfish resource, including but not limited to state and intertribal management issues.
- (d) To approve any Tribal shellfish training operation.
- (e) To receive and consider information, grievances, and recommendations from Tribal harvesters and other Tribal members, other Indian tribes, federal and state agencies, or other interested parties, relating to the conduct of Tribal harvests, conservation needs, or related management decisions.
- (f) To coordinate with the Tribal enforcement personnel activities which will minimize violations of Tribal regulations and assist conformance; aid in the monitoring of Tribal harvests and the gathering of any required report information; enable cooperative enforcement activities or patrols between Tribal officers and other agencies to minimize non-Tribal interference with authorized Tribal fishing activity; or otherwise aid in the monitoring or management purposes and objectives of the Puyallup Tribe.
- (g) Provide for a licensing or identification system for all boats and gear used by Tribal harvesters and elder's subsistence assistants in Tribally authorized shellfish harvest activities.
- (h) Provide development of Tribal programs, or Tribal participation in other programs, which will contribute to Tribal shellfish resources conservation, rehabilitation, development and enhancement, or which will contribute to the development of new employment opportunities for Tribal members in shellfish management activities and in shellfish-related industries. [Res. ( / / ); Res. 280202 (02/28/02); Res. 040494 (10/21/94); prior code § 12.05.240]

#### **Subchapter 5. Eligibility and Limitations**

##### **12.12.140 Persons eligible to harvest.**

- (a) Only duly enrolled members of the Puyallup Tribe, aged 16 or older shall be authorized to engage in any shellfish activity which is or may be allowed under provisions of this Code or Tribal regulations.
- (b) It shall not be a violation of this Code for Tribal members under the age of 16 years to be present during the exercise of any Treaty shellfish activity, if accompanied by an authorized Treaty fisher, and the child is present only after the hours of 3:00 p.m., or on a holiday or weekend.
- (c) Any harvester who has not paid his or her shellfish tax or fisheries-related Court fines shall be denied a Tribal fisheries identification card until such time as such taxes owing and/or fines owing have been paid in full, or the harvester is certified by the Tribal Court to be in compliance with Court-imposed fisheries-related penalties. [Res. ( / / ); Res. 280202 (02/28/02); Res. 040494 (10/21/94); prior code § 12.05.510]

#### **Subchapter 6. Fishing Assistants**

##### **12.12.180 Elder's subsistence assistant.**

An elder in need of assistance, due to ill-health, disability, and the like, shall be allowed to secure the help of an assistant to harvest shellfish for subsistence purposes only. To be eligible as an elder's subsistence assistant, the assistant must be a Tribal member over the age of 16 years. The elder in need of assistance shall apply to the Director or designated official for a permit. An elder's assistant must comply with all provisions of this Code and all future amendments and regulations. [Res. 280202 (02/28/02); Res. 040494 (10/21/94); prior code § 12.05.620]

##### **12.12.250 Providing data.**

Anyone authorized to harvest pursuant to this Code shall be responsible for providing the Shellfish Department all data as required by Subchapter 13. [Res. 280202 (02/28/02); Res. 040494 (10/21/94); prior code § 12.05.690]

### **Subchapter 7. Tribal Identification, Permits, and Licenses**

#### **12.12.260 Permits.**

- (a) It shall be unlawful for any Tribal member or elder's subsistence assistant to harvest any shellfish for commercial, subsistence, or ceremonial purposes without obtaining a permit issued by the Director, or designated official.
- (b) The Tribal fishing card shall be the permit for the subsistence harvester.
- (c) All permits shall be issued to Tribal members only.
- (d) The Director or other designated official shall have the discretion to issue or deny permits if the Director finds such action is in the best interests of the Tribal shellfish resource.
- (e) Each permit shall be for a specified period of time, and may restrict the holder to harvest shellfish from only certain areas, specific species, and specific gear used. Any such restrictions imposed shall be made on the basis of the best interests of the shellfish resource.
- (f) Each permit holder must have on their person a copy of the permit while harvesting shellfish.
- (g) Permits shall be of the following types:
  - (1) A commercial permit shall be issued when the shellfish harvested will be sold, bartered, or disposed of other than for subsistence or ceremonial use.
  - (2) A subsistence permit shall be automatically allowed by virtue of the Tribal member being a holder of a Tribal fishing card so long as the shellfish harvested will be used by the Tribal member, or a member of the Tribal member's family.
  - (3) A ceremonial permit may be issued when the shellfish will be used for the purpose of fulfilling requirements and needs for traditional Tribal ceremonies. Any member who is limited in or denied the privilege of taking ceremonial shellfish, for other than conservation or sanitation reasons, shall have the right of immediate appeal to the Tribal Council, whose decision shall be final. [Res. \_\_\_\_\_ ( / / ); Res. 280202 (02/28/02); Res. 040494 (10/21/94); prior code § 12.05.710]

### **Subchapter 17. General Violations**

#### **12.12.950 Unlawful assistance.**

It shall be unlawful for any person to engage in harvest activity while assisted or accompanied by a nonmember. [Res. \_\_\_\_\_ ( / / ); Res. 180106A § VII (01/18/06); prior code § 12.05.1712]

### **Subchapter 19. Penalties**

#### **12.12.1260 Penalties for commercial harvesting in closed areas.**

Any Tribal member or elder's subsistence assistant who is convicted of harvesting in an area closed to shellfish harvesting shall be subject to withdrawal of shellfish harvesting privileges and the imposition of civil penalties as follows:

- (a) For a first violation during a calendar year, all shellfish harvesting privileges of the violator shall be withdrawn for a period of not less than 10 calendar days nor more than 90 calendar days and a fine of \$500.00 shall be imposed.
- (b) For a second violation during a calendar year, all shellfish privileges of the violator shall be withdrawn for not less than 90 calendar days nor more than one full year, and a fine of \$2,500 shall be imposed.
- (c) For a third violation during a calendar year, or for a flagrant violation of this chapter, all shellfish privileges of the violator shall be withdrawn for a three-year period, and a fine of \$5,000 shall be imposed. A flagrant violation is one which results in severe personal injury, property damage or damage to the shellfish resource.

In addition, all gear, equipment, and shellfish proceeds seized by Law Enforcement Officers as evidence of the violations shall be forfeited to the Tribe. If found not guilty, all seized property shall be returned to the person whose property was seized. [Res. [REDACTED] ( / / ); Res. 280202 (02/28/02); Res. 040494 (10/21/94); prior code § 12.05.1930]

**12.12.1280 Penalties for subsistence shellfish harvesting violations.**

Any Tribal member or elder's subsistence assistant who violates any provision of this Code relating to subsistence harvest may be subject to the following penalties:

- (a) For a first violation during a calendar year, the shellfish harvesting privileges may be withdrawn for a period of not less than seven calendar days and not more than 14 calendar days.
- (b) For a second violation during a calendar year, the shellfish harvesting privileges may be withdrawn for a period of not less than 14 calendar days and not more than 30 calendar days.
- (c) For a third violation during a calendar year, the shellfish harvesting privileges may be withdrawn for not less than 30 calendar days and not more than one full year. [Res. [REDACTED] ( / / ); Res. 280202 (02/28/02); Res. 040494 (10/21/94); prior code § 12.05.1950]