

Title 18 – Natural Resources

Chapter 4 – Hunting and Gathering

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- 18-04.450 Gathering in Closed Areas.
 - 18-04.460 Possession of Illegally Taken Plants.

Legislative History

Enacted:

- Ordinance 405 Amending STC Title 18, Chapter 4 (7/8/20).
- Ordinance 347 Amending Ordinance No. 251 (Codified at STC Title 18, Chapter 4, Section .310) 7/14/15, BIA (7/28/15).
- Ordinance 327 Amending Ordinance No. 251 (Codified at STC Title 18, Chapter 4, Sections 140-180, 200, 230-270, 370, 390-410, 430, 450-460) 9/10/13, BIA (9/18/13).
- Ordinance 283 Amending STC Title 18, Chapter 4 Hunting and Ordinance 251 (1/11/11), BIA (1/19/11).
- Ordinance 251 Amending STC Title 18, Chapter 4 and Repealing and Superseding Ordinance 207 (10/12/06), BIA (10/16/06).

Repealed or Superseded:

- Ord. 207 Codifying Title 18 and Repealing and Superseding Ordinance Numbers 160, 158, 157, 156, 155, 153, 146, 117, 97, 96, 91, 88,82, 81, 77, 59, 49, and 6 (1/27/04), BIA (2/9/04).
- Ord. 156 Allowing for Electronic Home Monitoring in Sentencing (7/2/02), BIA (7/26/02) (amending the Criminal Ordinance, Criminal Traffic Ordinance, Fisheries Ordinance, and Hunting Ordinance).
- Ord. 59 (1/10/89), Enacting Res. 89-1-5, BIA (1/24/89) (modifying Ord. 57 with respect to the scope of tribal jurisdiction and repealing and superseding all previous hunting ordinances).
- Ord. 57, Enacting Res. 88-8-55 (8/31/88) (approved subject to the condition that it be modified regarding the scope of tribal jurisdiction; repealing and superseding all prior hunting ordinances).
- Ord. 56 (9/1/87), Enacting Res. 87-9-95 BIA, (10/26/87).
- Big Game Hunting Regulations, Res. 86-12-115 (12/15/86).
- Modifying Ord. 8 (10/13/41).

Ord. 8 (no date).

[Ed. Note. Enacting Res. 89-1-5 is misdated 1/10/88. The correct date is 1/10/89.]

18-04.010 Title.

This Chapter shall be known as the “Swinomish Hunting and Gathering Code.”

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.020 Declaration of Policy.

By the Treaty of Point Elliott, the Swinomish Indian Tribal Community reserved the right to hunt and gather on open and unclaimed lands. Art. 5, Stat. 927 (1855). Hunting and gathering have always been essential to the life of the Tribe. The purpose of this Chapter is to control and manage hunting and gathering within the exterior boundaries of the Reservation and on all open and unclaimed lands within the State of Washington in order to use and conserve the game and plant resources.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04) , BIA (02/09/04); Ord. 59 (1/10/89) , BIA (01/24/89).

Subchapter I – Administration

18-04.030 Eligible Hunters and Gatherers.

(A) **Enrolled Members.** Enrolled members of the Tribe who are eighteen (18) years of age and older are eligible to apply for hunting and gathering permits under the terms and conditions of this Title.

(B) **Firearms.** Tribal members who have been convicted by any court of competent jurisdiction of a crime for which the penalty includes a prohibition against the carrying of firearms are ineligible to use a firearm while exercising treaty hunting rights.

(C) **Minors--Hunting.**

(1) Enrolled members of the Tribe who are sixteen (16) or seventeen (17) years of age and who have completed a firearms safety course approved by the Tribe or the Washington Department of Fish and Wildlife are eligible to apply for a hunting permit. Proof of completion of a firearms safety course as required by this Section shall be furnished to the Game Manager prior to the issuance of a permit and tag(s).

- (2) Enrolled members of the Tribe who are fourteen (14) or fifteen (15) years of age who have completed a firearms safety course approved by the Tribe or the Washington Department of Fish and Wildlife and who are accompanied by an adult tribal member while hunting are eligible to apply for a hunting permit. Proof of completion of a firearms safety course as required by this Section shall be furnished to the Game Manager prior to the issuance of a permit and tag(s).

(D) **Minors – Gathering.** Enrolled members of the Tribe under the age of eighteen (18) may accompany and assist another enrolled member of the Tribe who has obtained a permit to gather under Section 18-04.060(B).

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.040 Designated Hunters.

- (A) The Game Manager may issue a permit and tags for a tribal hunter to hunt for another person only if the following requirements are met:
 - (1) The hunter must be an enrolled member eligible to hunt under this Chapter and his or her hunting privileges must not be suspended or revoked;
 - (2) The hunter may not obtain another tag, either for himself or for another person benefiting from the hunt, before turning in all outstanding tags;
 - (3) The person benefiting from the hunt must be an enrolled tribal member whose hunting privileges have not been suspended or revoked;
 - (4) The person benefiting from the hunt must have his or her name on the tag; and
 - (5) The person who pays for the permit shall get the refund referred to in Section 18-04.080(C)(2).
- (B) The person benefiting from the hunt may pay the designated hunter the actual expense of the hunt but shall not compensate the hunter for the meat.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.050 Commercial Benefits.

No person or entity other than a tribal member or a tribal enterprise shall be entitled to directly benefit from the exercise of tribal hunting or gathering rights.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.060 Permits and Identification.

(A) **Hunting.**

- (1) **Required.** No person shall participate in any manner in tribal hunting activities, whether as a tribal hunter or designated hunter, unless he or she is in possession of a valid and current Tribal Identification Card and the necessary permits as provided for in this Chapter and applicable regulations.

(B) **Gathering.**

- (1) **Required.** No person shall participate in any manner in tribal gathering activities
- (a) on private industrial timberlands or other private lands for which the Tribe has negotiated an access agreement; or
 - (b) on public lands south of a line running easterly from Point Pully to the crest of the Cascade Mountains and/or east of the crest of the Cascade Mountains; or
 - (c) within a national park with which the Tribe has not negotiated an access agreement

unless he or she is in possession of a valid and current Tribal Identification Card and the necessary permits as provided for in this Chapter and applicable regulations.

- (2) **Not Required.** Permits to gather on all public lands within the State of Washington other than those identified in Section 18-04.060(B)(1) above shall not be required.

- (C) **Fees.** The Senate may, from time-to-time, set fees for permits required by this Chapter; Provided that no fees shall be set for permits for hunting or gathering for ceremonial purposes.

- (D) **Seasonal Basis.** Tribal hunting and gathering permits shall be issued on a seasonal basis. The Fish and Game Management Commission shall set seasons by regulation. A permit is valid for the season for which it is issued.

- (E) **Satisfaction of All Fines and Penalties.** The Game Manager shall not issue a permit for any season unless the applicant has fully paid all outstanding fines, fees, costs, damages, or other monetary assessments arising from previous hunting or hunting-related offenses. The applicant must also have served all jail time and satisfied all other sanctions or orders of the court.

(F) **Penalties.** Any violation of Section 18-04.060 is a Class C infraction.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.070 Revocation or Suspension of Permits.

- (A) **Game Manager.** The Game Manager shall revoke or suspend the hunting privileges and any permits and licenses or Point Elliott Treaty Fishing card issued under the terms of this Title or any rules or regulations issued hereunder pursuant to a Resolution of the Senate or a valid court order.
- (B) The Senate may revoke or suspend any permit upon the recommendation of the Game Manager or the Fish and Game Management Commission for good cause when the Senate determines it would be in the best interest of the Tribe.

(1) **“Good cause”** shall include, but not be limited to:

- (a) Three (3) or more violations of this Chapter within three (3) years;
- (b) Conviction of a Class A crime under the Swinomish Criminal Code, the United States Criminal Code; or the criminal code of any state of the United States;
- (c) Conviction of Failure to appear in Court on a Fish and Game Citation or Complaint in violation of STC 4-09.120;
- (d) Failure to comply with court orders, including sentencing orders regarding the following:
 - (i) Any violation of this Title or any rule or regulation promulgated hereunder;
 - (ii) Any hunting-related violation of Title 4 – Criminal Code;
 - (iii) Any Class A violation of Title 4 – Criminal Code; or
 - (iv) Any felony under the laws of the United States or any state of the United States.
 - (v) Conviction for an assault on an Enforcement Officer, police officer, or other tribal official;
 - (vi) Conviction of a violation of this Chapter or Title 4 – Criminal Code that involves the reckless disregard for the safety of others while hunting or an affidavit from an Enforcement Officer stating

that the hunter was engaged in activity that constituted the reckless disregard for the safety of others while hunting; and

- (vii) Any actions that might jeopardize the Tribe's ability or opportunity to responsibly manage and harvest game resources.
- (C) **Notice.** Prior to any such revocation or suspension, the Game Manager shall provide written notice to the permittee and ensure that permittee has an opportunity to be heard before the Senate.
- (D) **Hearing.** The Senate shall conduct the hearing in the following manner:
- (1) The Game Manager shall provide the Senate with copies of the permit and of any documents in support of the Fish and Game Management Commission's recommendation that the hunter's permit or privileges be suspended or revoked;
 - (2) The hunter shall be provided a full and fair opportunity to respond, either orally or in writing;
 - (3) The Senate may question the Game Manager, the hunter, and any witnesses produced by either the Game Manager or the hunter, all of whom shall be placed under oath;
 - (4) The Game Manager shall be provided an opportunity to respond to any evidence produced by the hunter;
 - (5) After hearing from both the Game Manager and the hunter and any witnesses each may have produced, the Senate shall consider all of the evidence presented and shall suspend or revoke the hunter's permit or hunting privileges or shall deny the same upon such record, applying the provisions of the Swinomish Code and of Federal law and considering the best interests of the Tribe. The Senate may impose whatever conditions it deems necessary to ensure that the Tribe's treaty hunting rights are protected.
- (E) **Public Record.** The Senate shall make a written or audio record of the hearing.
- (F) **Written Decision.** The Senate shall issue its decision in the form of a written resolution. Copies shall be provided to the Fish and Game Management Commission and the party requesting the hearing, and shall be available for public inspection and copying at reproduction cost.

- (1) **Appeals.** The decision of the Senate may be appealed to Tribal Court. All appeals shall follow the procedures set forth for appeals in Chapter 18-10.

[History] Ord. 283 (1/11/11), BIA (1/19/11); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.080 Game Tags.

- (A) All persons hunting game shall carry game tags with them while hunting. Tags shall be obtained in person from the Game Manager or his or her designee.
- (B) The tag shall include the following information:
 - (1) Tag number;
 - (2) Species;
 - (3) Type of hunt (*i.e.* subsistence, ceremonial, or designated hunter);
 - (4) Period for which the hunting tag was issued;
 - (5) Hunter's signature;
 - (6) Signature of the Game Manager or his or her designee;
 - (7) Game Management Unit where the animal was killed;
 - (8) The animal's sex; and
 - (9) The animal's points or estimated age.
- (C) **Fees.**
 - (1) The fee for a hunting tag shall be a maximum of ten dollars (\$10.00) per hunter per permit.
 - (2) Hunters who return unused tags by the first Friday in March are eligible for a five dollar (\$5.00) refund.
- (D) Elk tags shall be issued per regulation.
- (E) Successful hunters shall return all completed game tags to the Game Manager, or his or her designee, within seventy-two (72) hours of the hunt.

- (F) **Penalties.** Any violation of this Section 18-04.080 is a Class C infraction. In addition, the hunter shall be ineligible to receive a game tag for the same species the season following the season in which the hunter committed the infraction.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04).

Subchapter II – Gear Restrictions

18-04.090 Firearms.

- (A) No person shall hunt big game with any of the following:
- (1) A fully automatic firearm;
 - (2) A rifle with a bore diameter less than .240 of an inch (6mm), or barrel length less than 16 inches;
 - (3) A rifle cartridge with a bullet weighing less than 85 grains, or that develops less than 900 foot pounds of energy at 100 yards;
 - (4) A rifle cartridge containing a bullet other than a mushrooming or expanding type and designed for big game hunting;
 - (5) A shotgun; except that a shotgun that is 20 gauge or larger, using shells loaded with slugs or buckshot size # 1 or larger, may be used to hunt deer and bear; or
 - (6) A handgun.
- (B) **Penalties.** Any violation of Section 18-04.090(A) is a Class B infraction.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.100 Bows and Arrows.

- (A) No person shall hunt big game with any of the following:
- (1) A bow that possesses less than 40 pounds of pull, measured at 28 inches or less draw length; or
 - (2) A crossbow.
- (B) **Penalties.** Any violation of Section 18-04.100(A) is a Class B infraction.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.110 Traps.

- (A) No person shall hunt big game with a trap.
- (B) **Penalties.** Any violation of Section 18-04.110(A) is a Class A infraction.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.120 Muzzle-Loading Rifles.

- (A) No person shall carry or possess any muzzle-loading rifle that does not meet the following requirements:
 - (1) If the rifle has a removable breech plug, such removal must require the use of tools.
 - (2) The barrel length must be a minimum of 20 inches and the caliber must be a minimum 40 caliber. Measurements are to be taken from land to land in the barrel.
 - (3) Ignition is to be wheellock, matchlock, flintlock, or percussion using original style percussion caps that fit on the nipple and are exposed to the elements.
- (B) Hunting with a muzzle-loading pistol is prohibited.
- (C) **Penalties.** A violation of Section 18-04.120(A) or (B) is a Class B violation.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04).

Subchapter III – Hunting Management Violations

18-04.130 All Hunting Areas Presumed Closed.

All open and unclaimed lands within the State of Washington are closed to hunting until such time as they are opened by regulation. Areas opened by regulation are only opened to hunting in accordance with this Title, and any rule or regulation promulgated hereunder.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.140 Hunting During Closed Season.

- (A) Any person who hunts during a closed season as established by this Chapter or any rule or regulation issued hereunder has committed a civil infraction.

(B) **Penalties.** Violation of Section 18-04.140(A) is a Class A infraction.

[History] Ord. 327 (9/10/13); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.150 Hunting in Closed Areas.

(A) Any person who hunts within the boundaries of a closed area designated by this Chapter or any rule or regulation issued hereunder has committed a civil infraction.

(B) **Penalties.** Any violation of Section 18-04.150(A) is a Class A infraction.

[History] Ord. 327 (9/10/13); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.160 Possession of Wildlife Taken During a Closed Season.

(A) Any person who possesses any wildlife killed during a closed season or who otherwise possesses or kills an animal contrary to this Chapter or any rule or regulation issued hereunder has committed a civil infraction.

(B) **Penalties.** Any violation of Section 18-04.160(A) is a Class A infraction.

[History] Ord. 327 (9/10/13); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.170 Bag Limits.

(A) Any person who exceeds the bag limit set by regulation issued pursuant to the terms of this Chapter has committed a civil infraction.

(B) **Penalties.** Any violation of Section 18-04.170(A) is a Class A infraction.

[History] Ord. 327 (9/10/13); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.180 Wasting Big Game.

(A) Any person who kills big game and causes it to go to waste has committed a civil infraction.

(B) **Penalties.** Any violation of Section 18-04.180(A) is a Class B infraction.

[History] Ord. 327 (9/10/13); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.190 Wasting Big Game (Criminal).

- (A) No person shall kill big game and intentionally or willfully cause it to go to waste.
- (B) **Penalties.** Wasting Big Game (Criminal) is a Class A offense, punishable under Section 4-12.020(A) of the Criminal Code. In addition to the penalties for a Class A offense of the Criminal Code, the offender shall be subject to the suspension of hunting privileges for a Class A infraction of the Hunting Code, punishable under Section 18-06.030(A).

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04).

18-04.200 Wasting Game Birds or Game Animals.

- (A) Any person who kills game birds or game animals and causes them to waste has committed a civil infraction.
- (B) **Penalties.** Any violation of Section 18-04.200(A) is a Class B infraction.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.210 Wasting Game Birds or Game Animals (Criminal).

- (A) No person shall kill a game bird or game animal and intentionally or willfully cause it to go to waste.
- (B) **Penalties.** Wasting Game Birds or Game Animals (Criminal) is a Class A offense, punishable under Section 4-12.020(A) of the Criminal Code. In addition to the penalties for a Class A offense of the Criminal Code, the offender shall be subject to the suspension of hunting privileges for a Class A infraction of the Hunting Code, punishable under Section 18-08.030(A).

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04).

18-04.220 Selling Game.

- (A) Any person who sells meat for money from game taken in the exercise of treaty rights has committed a civil conservation infraction.
- (B) **Penalties.** Any violation of Section 18-04.220(A) is a Class A infraction.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.230 Laying Out a Drug, Explosive, or Poison.

- (A) Any person who lays or sets out a drug, explosive, or poison that may endanger, injure or kill wildlife has committed a civil infraction.
- (B) This Section does not apply to any person engaged in valid scientific research that has been approved by the Game Manager.
- (C) **Penalties.** Any violation of Section 18-04.230(A) is a Class A infraction.

[History] Ord. 327 (9/10/13); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.240 Laying Out Bait.

[Reserved].

[History] Ord. 405 (7/8/20); Ord. 327 (9/10/13); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.250 Use of Dogs.

- (A) Any person accompanied by a dog while deer or elk hunting has committed a civil infraction.
- (B) **Penalties.** Any violation of Section 18-04.250(A) is a Class A infraction.

[History] Ord. 327 (9/10/13); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.260 Hunting with Artificial Light.

- (A) Any person who hunts game with an artificial light has committed a civil infraction.
- (B) **Penalties.** Any violation of this Section 18-04.260 is a Class A infraction.

[History] Ord. 327 (9/10/13); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.270 Hunting from a Vehicle.

- (A) Any person who hunts game from within or upon a moving motor vehicle or pursues game off a road with a moving motor vehicle has committed a civil infraction.

(B) **Penalties.** Any violation of Section 18-04.270(A) is a Class A infraction.

[History] Ord. 327 (9/10/13); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

Subchapter IV – Hunting Safety Infractions

18-04.280 Shooting Firearms Across Public Roads.

(A) Any person, except an authorized law enforcement officer, who discharges a firearm from, across, or along the maintained portion of a public road while hunting has committed a civil safety infraction.

(B) **Penalties.** Any violation of Section 18-04.280(A) is a Class A infraction.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.290 Shooting Arrows Across Public Roads.

(A) Any person who shoots an arrow from a vehicle or shoots an arrow from, across, or along the maintained portion of a public road while hunting has committed a civil safety infraction.

(B) **Penalties.** Any violation of Section 18-04.290(A) is a Class A infraction.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.300 Shooting Livestock.

(A) Any person who shoots any domestic livestock while hunting has committed a civil safety infraction.

(B) **Penalties.** Any violation of Section 18-04.300(A) is a Class A infraction.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.310 Hunting While Intoxicated.

Any person who hunts while under the influence of alcohol or illegal drugs commits a Class C offense, punishable under Section 4-12.020(B) of the Swinomish Criminal Code.

[History] Ord. 347 (7/14/15), BIA (/ /); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.320 Hunting at Night.

- (A) Any person who hunts at night, defined as the period between fifteen (15) minutes after the official time of sunset and fifteen (15) minutes before the official time of sunrise, has committed a civil safety infraction.
- (B) **Penalties.** Any violation of Section 18-04.320(A) is a Class A infraction.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.330 Transporting Loaded Firearms.

- (A) Any person, except an authorized law enforcement officer, who carries, transports, conveys, or possesses either of the following in a motor vehicle while hunting has committed a civil safety infraction:
 - (1) A shotgun or rifle containing shells or cartridges in the magazine or chamber;
or
 - (2) A muzzle-loading firearm loaded and capped or primed.
- (B) **Penalties.** Any violation of Section 18-04.330(A) is a Class B infraction.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

Subchapter V – Hunting and Gathering Administrative Infractions

18-04.340 Failure to Produce Permit or Identification.

- (A) A hunter or gatherer shall produce for examination his or her tribal permit, as applicable, and Tribal Identification Card upon the demand of an Enforcement Officer or a state or federal official who is authorized to monitor tribal hunting gathering activity.
- (B) Failure to produce the Tribal Identification Card and any permit issued pursuant to this Chapter shall be separate violations of this Chapter.
- (C) **Penalties.**
 - (1) **Not in Possession.** Any violation of Section 18-04.340(A) where the hunter or gatherer has the permit or identification but it is not in his immediate possession is a Class C infraction.

- (2) **No Permit or Identification at All.** Any violation of Section 18-04.340(A) where the hunter or gatherer does not have a required permit or identification at all is a Class B infraction.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.350 Multiple Permits Prohibited.

- (A) No person may hunt or gather, or assist in the exercise of Swinomish treaty hunting or gathering rights, while simultaneously exercising, or receiving benefits from, the treaty hunting rights of another Tribe.
- (B) **Penalties.** Any violation of Section 18-04.350(A) is a Class A infraction.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.360 Designated Hunter Violations.

- (A) No person shall sell or purchase meat from a designated hunt, as defined in Section 18-04.050.
- (B) **Penalties.** Any violation of Section 18-04.360(A) is a Class A infraction.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.370 Reporting Bagged Game.

- (A) Any person who fails to submit all harvest data specified on the tribal game tag and as required by this Chapter, or any rule or regulation issued hereunder, has committed a civil infraction.
- (B) **Penalties.** Any violation of Section 18-04.370(A) is a Class C infraction. In addition, the person in violation of this Section shall not be eligible to receive a tag for the same species during the season following the season in which the violator committed the infraction.

[History] Ord. 327 (9/10/13); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.380 Field Identification of Big Game.

- (A) The head of a big game animal shall be in close proximity to the carcass in the field and in the same vehicle as the carcass while being transported.

(B) **Penalties.** Any violation of Section 18-04.380(A) is a Class A infraction.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.390 Transporting Big Game.

(A) Any person who transports big game without attaching to the carcass a valid tribal game tag with the date of kill notched out has committed a civil infraction.

(B) **Penalties.** Any violation of Section 18-04.390(A) is a Class B infraction.

[History] Ord. 327 (9/10/13); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.400 Defacing.

(A) Any person who, while hunting or gathering, destroys or damages any printed matter or signs placed or posted by the Tribe, the State of Washington, private parties, or the federal government to assist in the enforcement of hunting or gathering regulations has committed a civil violation.

(B) **Penalties.** Any violation of Section 18-04.400(A) is a Class A infraction.

[History] Ord. 327 (9/10/13); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.410 Littering.

(A) Any person who, while hunting or gathering, leaves litter on any land not owned by the hunter or gatherer has committed a civil infraction.

(B) **Penalties.** Any violation of Section 18-04.410(A) is a Class B infraction.

[History] Ord. 327 (9/10/13); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.420 Trespass.

(A) Any person who knowingly hunts or gathers on privately owned land

(1) without the Tribe having obtained the written permission of the landowner or lessee; or

(2) Where such written permission exists and a key is required for entry, without the Game Manager or his or her designee assigning a key to the person to

enable that person to access private property for purposes of hunting or gather under this Chapter or any rule or regulation issues hereunder.

has committed a criminal offense.

(B) **Penalties.** Any violation of Section 18-04.420(A) is a Class A offense as defined by STC Title 4 – Criminal Code. Further, notwithstanding STC 18-08.040, STC 18-8.110 and STC 18-08.130, the person shall be

- (1) required to surrender his or her permit to hunt for all species of game within the special management unit within which the private lands lie for the remainder of the season; and
- (2) ineligible to obtain a permit to hunt for all species of game within the special management unit within which the private lands lie for the remainder of the season for the succeeding two (2) years.

[History] Ord. 283 (01/11/11), BIA (1/19/11); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.425 Prohibitions Regarding Keyed Access to Public Lands

(A) It shall be unlawful for any tribal hunter issued a key by the Game Manager or his or her designee enabling that hunter to access privately owned land under an agreement between the Tribe and the private land owner

- (1) to transfer the key to another individual (other than to return it to the Game Manager or his or her designee); or
- (2) to receive or possess the key from an individual other than the Game Manager or his or her designee; or
- (3) to fail to return the key within the period of time allotted to the individual for accessing such private lands.

(B) **Penalties.** Any violation of Section 18-04.425 constitutes a Class C civil infraction. Further, notwithstanding STC 18-08.040(C) and STC 18-8.130, the person shall be

- (1) required to surrender his or her permit to hunt for all species of game within the special management unit within which the private lands lie for the remainder of the season; and
- (2) ineligible to obtain a permit to hunt for any species of game within the special management unit within which the private lands lie for the succeeding two (2) years.

[History] Ord. 283 (01/11/11), BIA (1/19/11).

18-04.26 Duplicated Keys

- (A) It shall be unlawful for any tribal hunter to duplicate or copy a key provided by a private land owner to the Tribe, which enables the Tribe and its members to access privately owned land under an agreement between the Tribe and the private land owner.
- (B) **Penalties.** Any violation of Section 18-04.426 constitutes a Class A civil infraction. Further, notwithstanding STC 18-08.040(C) and STC 18-8.130, the person shall be
- (1) Required to surrender his or her permit to hunt for all species of game within the management unit within which the private lands lie for the remainder of the season; and
 - (2) Forever ineligible to obtain a permit to hunt for any species of game within the management unit within which the private lands lie.

[History] Ord. 283 (01/11/11), BIA (1/19/11).

18-04.430 Assisting a Violation.

- (A) Any person who knowingly assists, aids, or abets another person to engage in conduct that violates this Chapter, or any rules or regulations issued hereunder, has committed a civil infraction.
- (B) **Penalties.** Any violation of Section 18-04.430(A) shall be classified as one class below the class of the infraction assisted. However, where the infraction assisted is classified as a Class D infraction, then a violation of Section 18-04.430(A) shall be also classified as a Class D infraction.

[History] Ord. 327 (9/10/13); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.440 Hunting or Gathering While Privilege Revoked or Suspended.

- (A) It is unlawful for any person to hunt or gather while his or her hunting or gathering privilege has been suspended or revoked.
- (B) **Penalties.** Any violation of Section 18-04.440(A) is a Class A infraction.

[History] Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

Subchapter VI – Gathering Management Infractions

18-04.450 Gathering in Closed Areas.

- (A) Any person who gathers without a tribal permit within the boundaries of an area for which a permit is required by this Chapter or any rule or regulation issued hereunder has committed a civil infraction.
- (B) **Penalties.** Any violation of Section 18-04.150(A) is a Class A infraction.

[History] Ord. 327 (9/10/13); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).

18-04.460 Possession of Illegally Taken Plants.

- (A) Any person who possesses any plant gathered contrary to this Chapter or any rule or regulation issued hereunder has committed a civil infraction.
- (B) **Penalties.** Any violation of Section 18-04.160(A) is a Class A infraction.

[History] Ord. 327 (9/10/13); Ord. 251 (10/12/06), BIA (10/16/06); Ord. 207 (1/27/04), BIA (02/09/04); Ord. 59 (1/10/89), BIA (01/24/89).