

Title 7 – Domestic Relations

Chapter 1 – General Provisions

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Legislative History

Enacted:

Domestic Relations, Ord. 188 (11/10/03), BIA (11/25/03).

Repealed or Superseded:

Child Support, Ord. 129 (12/1/98), BIA (1/25/99) (amending Ord. 101).
Domestic Relations, Ord. 101 (4/6/93), BIA (5/3/93) (repealing any and all prior domestic relations ordinances).

7-01.010 Title.

This Title shall be referred to as the “Domestic Relations Code.”

[History] Ord. 188 (11/10/03).

7-01.020 Authority.

This Title is enacted pursuant to Article VI, Section 1(k), (l), (o), and (p) of the Swinomish Constitution.

[History] Ord. 188 (11/10/03); Ord. 101 (4/6/93).

7-01.030 Purpose and Scope.

The purpose of Chapters 1 through 7 includes the following:

- (A) To provide adequate procedures for the ceremony and registration of marriage;
- (B) To strengthen and preserve the institution of marriage and safeguard family

- relationships;
- (C) To promote the peaceful and fair settlement of disputes between parties to a marriage;
 - (D) To minimize the potential harm to spouses and their children caused by the process of legal dissolution of marriage (divorce);
 - (E) To make reasonable provisions for spouse and minor children during and after Tribal Court intervention; and
 - (F) To provide adequate procedures for establishing the legal relationship existing between a child and his or her natural or adoptive parents.

[History] Ord. 188 (11/10/03); Ord. 101 (4/6/93).

7-01.040 Construction.

Chapter 1 through Chapter 7 shall be exempted from the rules of strict construction and shall be liberally construed to give full effect to the objectives and purposes for which they were enacted. The terms and provisions of Chapter 1 through Chapter 7 shall be construed according to the fair import of their terms, but when the language is susceptible to differing construction, it shall be interpreted to further the general purposes stated in this Chapter. Where a term is not defined herein, it shall be given its ordinary meaning. Any reference to “he,” “him” or other masculine terms shall include male and female persons. Any reference to a singular term includes the plural.

[History] Ord. 188 (11/10/03); Ord. 101 (4/6/93).

7-01.050 Definitions.

For purposes of Chapter 1 through Chapter 7 of this Title, unless otherwise expressly provided, the following definitions shall apply:

- (A) **“Child Support Schedule”** means the formula for calculating in a fair and consistent manner the amount of child support payments equitable in any given situation approved under Section 7-06.020 and found at Chapter 7-06, Appendix I. The Tribal Court shall use the Child Support Schedule as a guideline for its child support orders.
- (B) **“Community Property”** generally means property acquired during marriage, except by gift, inheritance or devise to either spouse individually. All property acquired during marriage is presumed to be community property.
- (C) **“Conciliation Conference”** means a conference conducted by an impartial third party to assist the married parties in determining the prospects of preserving the

marital relationship as opposed to instituting or continuing with dissolution proceedings.

- (D) **“Dissolution”** means the act of terminating a marriage (i.e., divorce).
- (E) **“Irretrievably Broken”** means that there is no reasonable prospect for reconciliation.
- (F) **“Permanent Parenting Plan”** means a plan for parenting the child, including allocation of parenting functions, which plan is incorporated in any final decree or decree of modification in an action for dissolution of marriage, declaration of invalidity, legal separation, or child custody.
- (G) **“Reservation region”** means Skagit County.
- (H) **“Senate”** means the Swinomish Indian Senate.
- (I) **“Separate Property”** generally means property acquired before marriage or acquired during marriage by either spouse individually as a result of a gift, inheritance or devise. Property acquired after a legal separation is also separate property provided community property did not generate the funds for the acquisition (e.g., money from a community business).
- (J) **“Temporary Parenting Plan”** means a plan for parenting of the child pending final resolution of any action for dissolution of marriage, declaration of invalidity, legal separation, or child custody.
- (K) **“Tribe”** means the Swinomish Indian Tribal Community.

[History] Ord. 188 (11/10/03); Ord. 101 (4/6/93).

7-01.060 Nonwaiver of Sovereign Immunity.

Nothing in Chapter 1 through Chapter 7 shall be deemed to constitute a waiver by the Swinomish Indian Tribal Community of its sovereign immunity, rights, powers or privileges.

[History] Ord. 188 (11/10/03); Ord. 101 (4/6/93).

9-01 .070 Custom/Other Law.

- (A) Where helpful to the fair and equitable disposition of domestic relations matters, the Tribal Court may inquire into the tribal customs and usages of the Swinomish Indian Tribal Community.
- (B) As to any matters that are not covered by the codes, ordinances and resolutions of

the Tribe, or by the traditional customs and usages of the Tribe, the Tribal Court may be guided by laws developed by states, other tribes, or the federal government.

[History] Ord. 188 (11/10/03); Ord. 101 (4/6/93).

7-01.080 Severability.

If any provision of Chapter 1 through Chapter 7 or its application to any person or circumstance is held invalid, the remainder of the Title, or the application of the provision to other persons or circumstances, remains in effect.

[History] Ord. 188 (11/10/03); Ord. 101 (4/6/93).

7-01.090 Repealer.

Chapter 1 through Chapter 7 repeal and supersede any and all prior domestic relations ordinances.

[History] Ord. 188 (11/10/03); Ord. 101 (4/6/93).