



# QUILEUTE TRIBAL COUNCIL

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THE QUILEUTE TRIBAL COUNCIL  
LA PUSH, WASHINGTON

RESOLUTION NO. 2017-A-46,

WHEREAS, the Quileute Indian Tribe is a federally recognized Indian Tribe organized under the Indian Reorganization Act, and the Quileute Tribal Council is the duly constituted governing body of the Quileute Indian Tribe by authority of Article III of the Constitution and Bylaws of the Quileute Indian Tribe approved by the Secretary of the Interior on November 11, 1936, and;

WHEREAS, the ancestors of the present Quileute Tribe were a party to the Treaty of Olympia of 1855 [12 Stat. 97; II Kappler 719], and enjoy the rights reserved to it by that Treaty, and;

WHEREAS, the Quileute Tribal Council is empowered under the Constitution and Bylaws of the Tribe to provide for the maintenance of law and order; and

WHEREAS, the Quileute Tribal Council is desirous to provide for the safety and security of its membership and is empowered to do so by Article VI of the Constitution of the Quileute Indian Tribe [Constitution, Art. VI, § 1 (i) to promulgate and enforce ordinances, which shall be subject to review by the Secretary of the Interior, governing the conduct of members of the Quileute Tribe, and providing for the maintenance of law and order, and (q) to regulate the domestic relationship or members of the Tribe], and,

WHEREAS, the Quileute Tribal Council promulgated the Quileute Domestic Violence Prevention Ordinance on July 1, 1992, which was incorporated into the Quileute Law and Order Code as Article XIV; and,

WHEREAS, Tribal Council wishes to address the continuing problem of domestic violence by revising and expanding the laws relating to the prohibition of domestic violence with the goal of making the Quileute Reservation safe for all persons who reside here;

NOW THEREFORE BE IT RESOLVED BY THE Quileute Tribal Council that the Domestic Violence Protection Ordinance attached hereto as Exhibit A is hereby enacted; and

BE IT FURTHER RESOLVED by the Quileute Tribal Council that the appropriate staff are hereby directed to obtain BIA approval of the Quileute Tribe's Domestic Violence Protection Ordinance in accordance with the QUILEUTE CONSTITUTION and to take

all other necessary steps to ensure implementation of the Compact and ordinance consistent with their terms.

QUILEUTE TRIBAL COUNCIL

  
\_\_\_\_\_  
Authorized Representative  
Quileute Tribal Council

\*\*\*CERTIFICATION\*\*\*

I, the undersigned, hereby certify that the above resolution was adopted by vote with the presence of a quorum of the Quileute Tribal Council at La Push, Washington on the 5<sup>th</sup> day of October, 2017, by a vote of 3 for, 0 against, 0 abstentions.

  
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Authorized Representative  
Quileute Tribal Council

**Quileute Law and Order Code Article XIV**  
**Quileute Domestic Violence Protection Ordinance**

**Section 1. Policy**

The Quileute Tribe has the duty and the right to care for the health, safety and welfare of the members of the Quileute Tribe. On account of the serious problems of Domestic Violence that occurred on the Quileute Reservation threatening the health, security, and general welfare of the Tribe, the Tribal Council promulgated the Quileute Domestic Violence Ordinance on July 1, 1992 (enacted by Resolution 92-A-55) which was incorporated into the Quileute Law and Order Code as Article XIV. As a result of the continuing problems of Domestic Violence within the Tribe's jurisdiction, the Quileute Tribal Council has determined to revise and expand its laws relating to the prohibition of Domestic Violence with the goal of making the Quileute Reservation safe for all persons who reside here.

**Section 2. Prior Inconsistent Codes and Ordinances Repealed**

This Chapter hereby repeals the Quileute Domestic Violence Prevention Code passed by Resolution 92-A-55. Any law of the Quileute Tribe that conflicts in any way with the provisions of this Code is hereby repealed to the extent that it is inconsistent or conflicts with this Chapter.

**Section 3. Application**

This Chapter applies to both adults and minors within the jurisdiction of the Quileute Tribe.

**Section 4. Definitions**

- A. These definitions shall be liberally construed so as to protect all members of the Quileute Community
1. "Domestic Violence" means:
    - (a) Physical harm, bodily injury, assault or the infliction of the fear of physical harm, malicious mischief, damage to property, and bodily injury or assault, committed by one family or household member against another family or household member;
    - (b) Physical harm, bodily injury, assault or the infliction of the fear of physical harm, malicious mischief, damage to property, and bodily injury or assault, committed by one party of a dating relationship;
    - (c) Non-consensual sexual conduct of one family or household member by another;or

- (d) Non-consensual sexual conduct committed by one party of a dating relationship.
- 2. “Family or household members” includes but is not limited to:
  - (a) Spouses or former spouses;
  - (b) Persons related by blood, marriage, or adoption;
  - (c) Persons who are presently residing together or who have resided together in the past;
  - (d) Persons who have a child in common.
- 3. “Dating relationship” is a relationship in which the parties are, or have been, romantically involved in an ongoing relationship including, but not limited to, persons who identify as boyfriend and girlfriend and/or hold themselves out as a couple, including same-sex couples.
- 4. “Business day” does not include Saturdays, Sundays, or Quileute legal holidays.

**Section 5. Commencement of action—Jurisdiction--Venue**

- 1. Any person may seek relief under this Code by filing a petition with the Court alleging that the person has been the victim of Domestic Violence committed by the respondent named in the petition.
  - (a) Any person may petition for relief on behalf of himself, herself, or on behalf of a minor at that minor’s request.
  - (b) If a minor is over the age of fifteen, the judge shall consider the minor’s wishes when granting request.
- 2. The Quileute Tribal Court has jurisdiction over proceedings under this Code in all cases where jurisdiction is proper under section 4.01 of the Quileute Law & Order Ordinance No. 74-A7 as amended.
- 3. A person’s right to petition for relief under this Code is not affected by the person leaving the residence or household to avoid abuse.

**Section 6. Petition for an Order for Protection—Availability of forms and instructional brochures—Filing fee, when required—Bond not required.**

- 1. There shall exist an action known as a Petition for an Order for Protection in case of Domestic Violence.

2. A Petition for an Order for Protection shall allege the existence of Domestic Violence, and shall be accompanied by a declaration made under oath by the petitioner stating the specific facts and circumstances from which relief is sought.
3. A Petition for an Order for Protection may be made regardless of whether or not there is a pending lawsuit, complaint, petition or action between the parties.
4. The court clerk's office shall make available simplified forms and instructional brochures. Any assistance or information provided by the clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.
5. Forms and instructional brochures shall be provided free of charge. There shall be no filing fee for a Petition for an Order for Protection.
6. A person is not required to post a bond to obtain relief in any proceeding under this section.

**Section 7. Development of forms and instructional brochures by the administrator for the court—Distribution of master copy.** The administrator for the Quileute Tribal Court shall develop and prepare, in consultation with interested persons, the forms and instructional brochures required under section 6 herein. The administrator for the Quileute Tribal Court shall distribute a master copy of the forms and instructional brochures to all court clerks.

**Section 8. Hearing—Service—Time.** Within 3 business days from the filing of the petition, the court shall order a hearing, which shall be held not later than 31 days from the filing date of the petition. Personal service shall be made upon the Respondent not less than 5 court days before the hearing. An officer of the La Push Police Department shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party. If timely service cannot be made, the court may set a new hearing date.

**Section 9. Forms of Relief.**

1. Upon notice and after hearing, the court may provide relief as follows:
  - (a) Restrain a party from committing acts of Domestic Violence;
  - (b) Exclude a party from the dwelling that the parties share, or from the residence of the petitioner;
  - (c) Order the respondent to participate in treatment or counseling services and to sign release of information forms as may be required to enable Court monitoring of respondent's compliance with treatment or counseling as ordered;

(d) Order other relief as it deems necessary for the protection of a family or household member, or current/former dating partner, including orders or directives to the law enforcement officer, as allowed under this Code;

(e) Require the respondent to pay court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee, and;

(f) Restrain any party from having contact with the victim of Domestic Violence or the victim's children or members of the victim's household.

2. If the parties have minor children, the court shall make a residential provision for temporary custody of the children.

3. Any relief granted by the Order for Protection, other than a judgment for costs, shall not be valid for less than one year from the date of issuance.

4. In providing relief under this Code, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of Domestic Violence.

**Section 10. Emergency temporary order for protection.**

1. Where a Petition for an Order for Protection alleges that irreparable injury could result from Domestic Violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the court deems proper, including an order:

(a) Restraining any party from committing acts of Domestic Violence;

(b) Excluding any party from the dwelling shared or from the residence of the other until further order of the court;

(c) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court; and

(d) Restraining any party from having contact with the victim of Domestic Violence, the victim's children, or members of the victim's household.

2. Irreparable injury under this section includes, but is not limited to, situations in which the respondent has recently threatened the petitioner with bodily injury or has engaged in acts of Domestic Violence against the petitioner.

3. The court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following business day.

4. An ex parte temporary order for protection shall be effective for a fixed period not to exceed thirty-one days, but may be reissued. A full hearing, as provided in this chapter, shall be set for not later than thirty-one days from the issuance of the temporary order. The respondent shall be served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

**Section 11. Issuance of order—Assistance of peace officer.** When an order is issued under this Code, and upon request of the petitioner, the court may order a peace officer to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in the execution of the order for protection.

**Section 12. Order-Service.**

1. An order issued under this Code shall be personally served upon the respondent, except as provided in subsection 6 of this section.
2. An officer of the La Push Police Department shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party.
3. If service by the La Push Police Department is to be used, the clerk of the court shall have a copy of any order issued under this Code forwarded on or before the next business day to the La Push Police Department for service upon the respondent. Service of an order issued under this Code shall take precedence over the service of other documents unless they are of a similar emergency nature.
4. If the officer cannot complete service upon the respondent within 10 days, the officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.
5. Returns of service under this Code shall be made in accordance with applicable court rules.
6. If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

**Section 13. Order—Transmittal to the La Push Police Department.** A copy of an order for protection granted under this Code shall be forwarded by the clerk of the court on the day of issuance to the La Push Police Department.

**Section 14. Violation of order—Penalties.**

1. Whenever an order for protection is granted under this Code and the respondent or person to be restrained knows of the order or reasonably should know of the order, a

violation of any provision of the order for protection may be charged pursuant to Section 13.23.1.6 of the Quileute Law and Order Code.

2. A law enforcement officer may arrest without a warrant and take into custody a person whom the officer has probable cause to believe has violated an order issued under this Code that restrains the person or excludes the person from a residence, if the person restrained knows of the order.

**Section 15. Order—Modification—Transmittal.** Upon application with notice to all parties and after a hearing, the court may modify the terms of an existing order for protection. In any situation where an order is terminated or modified before its expiration date, the clerk of the court shall forward, on the date of modification or termination, a true copy of the modified order or the termination order to the La Push Police Department.

**Section 16. Peace officers—Immunity.** No law enforcement officer may be held criminally or civilly liable for making an arrest under this Code if the officer acts in good faith and without malice.

**Section 17. Title to real estate—Effect.** Nothing in this Code may affect the title to real estate; Provided that a judgment for costs or fees awarded under this Code shall constitute a lien on real estate.

**Section 18. Proceedings additional.** Any proceeding under this Code is in addition to other civil and/or criminal remedies.

**Section 19. Parenting Plan—Designation of parent for state and federal purposes.** Solely for the purpose of any applicable state and federal statutes that require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside a majority of the time as the custodian of the child. Such designation shall be made under the rebuttable presumption that the respondent parent, as a perpetrator of abuse, shall not be the primary custodian of the child.

**Section 20. Law Enforcement officers—Training, powers, duties.**

1. All training relating to the handling of Domestic Violence complaints by officers of the La Push Police Department shall stress enforcement of criminal laws in domestic situations, availability of community resources, and protection of the victim. Law enforcement agencies and community organizations with expertise in the issue of Domestic Violence shall cooperate in all aspects of such training.

2. The primary duty of officers of the La Push Police Department, when responding to a Domestic Violence situation, is to enforce the laws allegedly violated and to protect the complaining party.



3. When an officer of the La Push Police Department responds to a Domestic Violence call:

(a) And upon probable cause to believe that a crime has been committed, the officer may exercise arrest powers with reference to the criteria in Section 10.04 of the Quileute Law & Order Code. The officer shall notify the victim that the victim may request the Tribal Prosecutor to review any case where the officer has not exercised arrest powers or decided to initiate criminal proceedings by citation or other. The parties in such cases shall also be advised of the importance of preserving evidence; and

(b) The responding officer shall take a complete offense report including the officer's disposition of the case.

4. When an officer of the La Push Police Department responds to a Domestic Violence call, the officer may temporarily remove any weapons and the officer shall advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community, and giving each person immediate notice of the legal rights and remedies available. The notice shall include handing each person a copy of the following statement:

“IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the Tribal prosecutor to file a criminal complaint. You also have the right to file a petition in Tribal Court requesting an order for protection from Domestic Violence which could include any of the follow: (a) An order restraining your abuser from further acts of abuse; (b) an order directing your abuser to leave your household; (c) an order preventing your abuser from entering your residence, school, business, or place of employment; (d) an order awarding you or the other parent custody of or visitation with your minor child or children; and (e) an order restraining your abuser from molesting or interfering with minor children in your custody. The forms you need to obtain a protection order are available in tribal court.”

Information about local shelters, resources and alternatives to Domestic Violence will also be provided to the victim by law enforcement.

5. The responding officer may offer, arrange, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

6. The La Push Police Department shall forward the offense report to the appropriate prosecutor within 10 days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation.

7. The La Push Police Department shall make as soon as practicable a written record and shall maintain records of all incidents of Domestic Violence reported to it.

8. Records kept pursuant to subsections (3) and (7) of this section shall be made identifiable by means of a departmental code for Domestic Violence.

**Section 21. Restrictions upon and duties of the Quileute Tribal Court.**

1. Because of the serious nature of Domestic Violence, the Quileute Tribal Court in Domestic Violence actions shall:

(a) Not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Not require proof that either party is seeking dissolution of marriage prior to instigation of criminal proceedings;

(c) Waive any requirement that the victim's location be disclosed to any person, other than the attorney/spokesperson of a criminal defendant, upon a showing that there is a possibility of further violence: Provided, That the court may order a criminal defense attorney/spokesperson not to disclose to his or her client the victim's location; and

(d) Identify by any reasonable means on docket sheets those criminal actions arising from acts of Domestic Violence.

2. Because of the likelihood of repeated violence directed at those who have been victims of Domestic Violence in the past, when any person charged with or arrested for a crime involving Domestic Violence is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, the court authorizing release may issue, in person or by telephone, a no-contact order prohibiting the person charged or arrested from having contact with the victim. The no-contact order shall also be issued in writing as soon as possible. If the court has probable cause to believe that the person charged or arrested is likely to use or display or threaten to use a deadly weapon in any further acts of violence, the court may also require that person to surrender any deadly weapon in that person's immediate possession or control to the Chief of the La Push Police Department for safekeeping.

3. At the time of arraignment the court shall determine whether a no-contact order shall be issued or extended.

4. The written order releasing the person charged or arrested shall contain the court's directives and shall bear the legend: Violation of this Order is a criminal offense under Quileute Law & Order Code 13.23.1.6 and will subject a violator to arrest. A certified copy of the order shall be provided to the victim. If a no-contact order has been issued before charging, the temporary order shall expire at arraignment.

5. Whenever an order prohibiting contact is issued, modified, or terminated under subsection (2) or (3) of this section, the clerk of the court shall forward a copy of the order on the day of issuance, modification, or termination to the La Push Police Department. Within 8 hours of receipt of the copy of the order the La Push Police Department shall enter the order into a tracking system and retain a copy of the order for one year or until the expiration date specified.

6. Criminal complaints and all related court documents in cases charging a crime involving Domestic Violence, as defined by Section 4 of this Code, shall be made identifiable by means of including the tag "(Domestic Violence)" where ever the charged offense is listed. (i.e. Simple Assault(Domestic Violence)).**Section 22. Appearances by defendant—Orders prohibiting contact.**

1. A defendant arrested for an offense involving Domestic Violence as defined by Section 3(A)(1) shall be required to appear in person before the Quileute Tribal Court within 1 judicial day after the arrest.

2. A defendant who is charged by citation, complaint, or information with an offense involving Domestic Violence as defined by Section 4(A)(1) and not arrested shall appear for arraignment in person as ordered, but in no event later than 31 days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

3. At a time of the appearances provided in subsection (1) or (2) of this section, the Court shall determine the necessity of imposing a no-contact order or other conditions of pretrial release according to the procedures established by court rule for a preliminary appearance or an arraignment. If the court has probable cause to believe that the defendant is likely to use or display or threaten to use a deadly weapon in any further acts of violence, as one of the conditions of pretrial released, the court may require the defendant to surrender any deadly weapon in the defendant's immediate possession or control or subject to the defendant's immediate possession or control, to the Chief of the La Push Police Department for safekeeping. The decision of the judge and finding of fact in support thereof shall be in writing.

4. Appearances required pursuant to this section are mandatory and cannot be waived.

5. The no-contact order shall be issued and entered with the appropriate law enforcement agency pursuant to the procedures outline in Section 13.

**Section 23. Restriction or prohibition of contact with victim—Violation, penalties—Written order—Procedures.**

1. When a defendant is found guilty of a crime and a condition of the sentence restricts the defendant’s ability to have contact with the victim, such condition shall be recorded and a written certified copy of that order shall be provided to the victim.
2. The written order shall contain the court’s directives and shall bear the legend: Violation of this Order is a criminal offense under Quileute Law and Order Code Section 13.23.1.6 and will subject a violator to arrest.
3. Whenever an order prohibiting contact is issued pursuant to this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the La Push Police Department. Within 8 hours of receipt of the copy of the order the La Push Police Department shall enter the order into its filing system and retain a copy of the order for one year or until the expiration date specified.

**Section 25. Severability.** If any provision of this Code or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

**Section 26. Sovereign Immunity**

- (1) No Waiver. Nothing in this Code shall be construed as a waiver of the sovereign immunity of the Quileute Tribe, its departments, agencies, elected officials, employees, or agents.
- (2) Good Faith. Any employee of the Quileute Tribe acting under good faith under this Code shall be immune from any civil liability arising out of such actions.

**Section 27. Effective Date**

This Code shall take effect and be enforced immediately upon the approval, pursuant to Quileute Constitution, art. IV, § 1(i), of the Secretary of the Interior or his designee.

**Section 28. BIA Approval**

Pursuant to Quileute Constitution, art. IV, § 1(i), this Code is approved by the Secretary of the Interior, or his designee, on this \_\_\_ day of \_\_\_\_\_, 20\_\_.