

Title 7 – Domestic Relations

Chapter 2 – Marriage

Sec.

7-02.010	Persons Who May Marry
7-02.020	Prohibited Marriages
7-02.030	Who May Perform Marriage Ceremonies
7-02.040	Marriage Ceremony
7-02.050	Marriage Licenses, Affidavits and Certificates
7-02.060	Voidable Marriages
7-02.070	Existing Marriages

Legislative History

Enacted:

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

Repealed or Superseded:

Domestic Relations, Ord. 101 (4/6/93), BIA (5/3/93) (repealing any and all prior domestic relations ordinances).

Law and Order Code, Ord. 7 (3/23/38), BIA (3/24/38) (Chapter III).

7-02.010 Persons Who May Marry.

- (A) Marriage is a personal relationship between two (2) persons arising out of a civil contract to which the consent of the parties is essential.
- (B) No marriage license shall be issued or marriage performed unless the persons to be married meet the following qualifications:
 - (1) Both persons to be married are at least twenty-one (21) years old; and
 - (2) At least one (1) of the persons to be married is an enrolled member of the Swinomish Indian Tribal Community.

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

7-02.020 Prohibited Marriages.

Marriages in the following cases are prohibited:

- (A) When either party thereto has a wife or husband living at the time of marriage;

- (B) When the parties thereto are nearer of kin to each other than second cousins;
- (C) It shall be unlawful for any man to marry his father's sister, mother's sister, daughter, sister, son's daughter, daughter's daughter, brother's daughter, or sister's daughter; and
- (D) It shall be unlawful for any woman to marry her father's brother, mother's brother, son, brother, son's son, daughter's son, brother's son, or sister's son.

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

7-02.030 Who May Perform Marriage Ceremonies.

- (A) A marriage may be solemnized and performed on the Swinomish Indian Reservation by the following:
 - (1) A recognized member of the clergy or person recognized by their religion as having authority to perform marriages; or
 - (2) A judge of the Tribal Court.
- (B) No marriage solemnized or performed before any person professing to have authority to marry shall be invalid for lack of such authority, if consummated in the belief of the parties or either of them that they have been lawfully joined in marriage.

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

7-02.040 Marriage Ceremony.

No particular form of marriage ceremony is required, provided that the persons to be married shall declare in the presence of the person performing the marriage ceremony that they take each other to be husband and wife and that such declaration is made in the presence of at least two (2) attending witnesses.

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

7-02.050 Marriage Licenses, Affidavits and Certificates.

- (A) No marriage ceremony shall be performed unless the parties have first obtained a marriage license from the clerk of the Tribal Court.
- (B) In addition to payment of a fee to be set by the Tribal Court, the clerk shall require

each party to make and file an affidavit upon forms provided by the Tribal Court showing that they are not afflicted with any sexually transmitted diseases and that applicants are of the age of twenty-one (21) or over the license shall be granted. Such affidavit shall also show that one of the parties is an enrolled member of the Swinomish Indian Tribal Community. Anyone who knowingly swears falsely to any of the statements contained in the affidavits shall be deemed guilty of perjury and punished as provided by the laws of the Swinomish Indian Tribal Community.

- (C) The clerk shall keep a public record of all marriage licenses and certificates issued.
- (D) The marriage license, properly endorsed by the authorized person performing the marriage and two (2) attending witnesses, shall be returned to the clerk within thirty (30) days of the ceremony, who shall issue a marriage certificate to the parties.

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

7-02.060 Voidable Marriages.

When either party to a marriage shall be incapable of consenting thereto, for want of legal age or a sufficient understanding, or when the consent of either party shall be obtained by force or fraud, such marriage is voidable, but only by the party laboring under the disability or upon whom the force or fraud is imposed.

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

7-02.070 Existing Marriages.

- (A) All marriages performed, other than as provided under this Chapter, that are valid under the laws of the jurisdiction where and when performed, are valid within the jurisdiction of the Tribe.
- (B) All marriages performed or entered into on the Swinomish Indian Reservation prior to the effective date of this Chapter, including those perfected according to Tribal custom, are declared valid for all purposes under this Title. Parties to such marriages may obtain a marriage certificate upon proof to the clerk by affidavit or otherwise of the validity of their marriage and payment of a fee to be set by the Tribal Court.
- (C) Customary and common law marriages entered into after April 6, 1993 shall not be recognized by Tribal law.

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