

TITLE 18. LABOR AND EMPLOYMENT

Chapter 18.3

EMPLOYEE WAGES AND HOURS

Sections:

| | |
|---------|---|
| 18.3.1 | Title. |
| 18.3.2 | Findings. |
| 18.3.3 | Purpose. |
| 18.3.4 | Definitions. |
| 18.3.5 | Minimum Wage. |
| 18.3.6 | Maximum Hours. |
| 18.3.7 | Exemptions. |
| 18.3.8 | Compensatory Time Not Allowed. |
| 18.3.9 | Construction of Rights in Accordance with Federal Law. |
| 18.3.10 | No Consent to Applicability of Federal Law or Waiver of Sovereign Immunity. |
| 18.3.11 | Prohibited Acts. |
| 18.3.12 | Implementation. |
| 18.3.13 | Enforcement. |

18.3.1. Title. This chapter is the “Suquamish Employee Wages and Hours Ordinance.” (Res. 2016-163, passed Oct. 3, 2016)

18.3.2. Findings. The Suquamish Tribal Council finds, as a matter of tribal public policy, the following:

(a) The Tribe has a primary interest in exercising its inherent sovereign authority to provide for a fair and productive working environment for employers and employees within the territorial jurisdiction of the Suquamish Tribe of the Port Madison Indian Reservation.

(b) As a sovereign government, the Suquamish Tribal Council finds that it is in its own best interests to govern employment relations within its territorial jurisdiction to ensure fair and productive working environments, and, to that end, to establish standards and rules governing minimum hourly wages and overtime pay.

(c) The Tribe wishes to set forth the terms and conditions for minimum wages and overtime within its jurisdiction.

(d) The Tribe exercises its inherent sovereign authority to address minimum wages and overtime in a manner that is effective and efficient and, to that end, as far as the legal standards of other jurisdictions correspond with the Tribe’s public policy values, and without in any way compromising its own inherent sovereign authority, the Tribe may choose to adopt the standards of other jurisdictions as the law of the Tribe.

(e) Nothing contained in this chapter will be interpreted to conflict with Chapter 11.8, Prevailing Wage. (Res. 2016-163, passed Oct. 3, 2016)

18.3.3. Purpose. The purpose of this chapter is to establish legal rights of employees to minimum wages and overtime in accordance with the Tribe's public policy values. (Res. 2016-163, passed Oct. 3, 2016)

18.3.4. Definitions. Unless otherwise provided in this chapter, or context shows otherwise, the definitions of subsections 18.1.4(a), (d), (e), and (f) are incorporated in this chapter. (Res. 2016-163, passed Oct. 3, 2016)

18.3.5. Minimum Wage. Employees will be paid an hourly wage of not less than the minimum wage established by federal law by the authority of the federal Fair Labor Standards Act of 1938, Title 29 of the United States Code, sections 201 et seq., as amended ("FLSA") and U.S. Department of Labor regulations concerning the FLSA. The Tribal Council may change this wage by vote, provided that the resulting wage does not cause employees to be paid wages below those that would be required if the FLSA covered the employees. (Res. 2016-163, passed Oct. 3, 2016)

18.3.6. Maximum Hours. Except as otherwise provided in this chapter, no employer may employ any of its employees for a workweek longer than forty (40) hours unless that employee receives compensation for hours worked in excess of forty (40) hours at a rate not less than one and one-half (1 and 1/2) times the regular rate at which the employee is employed. In determining whether or not an employee has been employed for a workweek longer than forty (40) hours, only hours the employee has actually worked are considered; hours paid but not worked (e.g. vacation and sick time) are not counted. (Res. 2016-163, passed Oct. 3, 2016)

18.3.7. Exemptions. The provisions in sections 18.3.5 and 18.3.6 do not apply to any categories of employees that the Tribal Council designates as exempt. Nor do sections 18.3.5 and 18.3.6 apply to employees employed in a bona fide executive, administrative, or professional capacity, and these exemptions will be construed as provided by section 18.3.9. Nor do the provisions in Sections 18.3.5 or 18.3.6 apply with respect to other employees exempt from either minimum wages or overtime according to the FLSA. (Res. 2016-163, passed Oct. 3, 2016)

18.3.8. Compensatory Time Not Allowed. Departments of Tribal Government may not offer employees the option of receiving compensatory time off at the rate of one and one half (1 and 1/2) hours in place of overtime pay after that employee has worked forty (40) hours within a work week. (Res. 2016-163, passed Oct. 3, 2016)

18.3.9. Construction of Rights in Accordance with Federal Law. In the exercise of its inherent sovereign authority and without in any way compromising its sovereign authority to determine the standards and conditions under which minimum wages and overtime pay may be required and protected within the Tribe's territorial jurisdiction, until

such time as the Tribe may choose to enact further or amended provisions of this chapter, the rights of employees with respect to minimum wages, maximum hours, and overtime pay under this chapter must be construed in accordance with the FLSA and cases and regulations under the FLSA, *provided, however, that* as far as there is any conflict between the terms of this chapter, other provisions of this code, or other provisions of the Suquamish Tribal Code and the FLSA, the law of the Tribe controls. (Res. 2016-163, passed Oct. 3, 2016)

18.3.10. No Consent to Applicability of Federal Law or Waiver of Sovereign Immunity. The Tribe's decision to construe rights and benefits under this chapter in accordance with the FLSA as provided in section 18.3.9 will not be construed as a consent to the FLSA's application to the Tribe or to any employer or as any waiver of sovereign immunity from suit. (Res. 2016-163, passed Oct. 3, 2016)

18.3.11. Prohibited Acts. The following acts are prohibited:

(a) To transport, offer for transportation, ship, deliver, or sell in commerce, or to ship, deliver, or sell with knowledge that shipment or delivery or sale of goods in commerce is intended, any goods in the production of which any employee was employed in violation of sections 18.3.5 or 18.3.6;

(b) to violate any of the provisions of sections 18.3.5 or 18.3.6, above;

(c) to discharge or in any other manner discriminate against any employee because that employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter, or has testified or is about to testify in any such proceeding;

(d) to violate any of the child labor provisions of the FLSA;

(e) to violate the recordkeeping provisions of the FLSA. (Res. 2016-163, passed Oct. 3, 2016)

18.3.12. Implementation. Employers subject to this chapter's provisions must develop and adopt, subject to the Tribal Council's approval, policies and procedures to implement this chapter's provisions. (Res. 2016-163, passed Oct. 3, 2016)

18.3.13. Enforcement. Violations of this chapter may be enforced according to chapter 18.4. (Res. 2016-163, passed Oct. 3, 2016)