

TITLE 10
TRIBAL LAND

Chapter 10.01 Land Assignment

10.01.01	Purpose.....	1-1
10.01.02	Definitions.....	1-2
10.01.03	Persons Eligible for Assignment.....	1-2
10.01.04	Use of Property.....	1-2
10.01.05	Interest Conveyed.....	1-3
10.01.06	Requirement to Improve and Develop the Land.....	1-3
10.01.07	Ownership of Improvements.....	1-4
10.01.08	Disposition of Improvements.....	1-5
10.01.09	Land Available for Assignment.....	1-5
10.01.10	Size of Assigned Lots.....	1-5
10.01.11	Tenure of Assignment.....	1-5
10.01.12	Assignment to Couples.....	1-6
10.01.13	Disposition of Assignment at Death – Tribal Council Procedure	
10.01.14	Disposition of Assignment at Death - Member Spouse.....	1-6
10.01.15	Disposition of Assignment at Death - Non-Member Spouse.....	1-6
10.01.16	Disposition of Assignment at Death - Remarriage of Non-Member Spouse.....	1-7
10.01.17	Disposition of Assignment at Death - Surviving Children.....	1-8
10.01.18	Disposition of Assignment at Death - Name During Assignment's Use.....	1-8
10.01.19	Disposition of Assignment at Death - No Survivors.....	1-8
10.01.20	Disposition of Assignment at Death - Unmarried Couple.....	1-9
10.01.21	Disposition of Assignment on Divorce - Member Spouse.....	1-9
10.01.22	Disposition of Assignment on Divorce – Non-Member Spouse ...	1-9
10.01.23	Disposition of Assignment on Divorce - Remarriage of Non- Member.....	1-9
10.01.24	Disposition of Assignment on Divorce - No Member Child or Spouse.....	1-10
10.01.25	Disposition of Assignment on Separation of Unmarried Couple	1-10
10.01.26	Moving from the Reservation – Notice to Tribal Council - Termination.....	1-10
10.01.27	Moving from the Reservation - Failure to Notify.....	1-10
10.01.28	Moving from Lot Assignment – Within Tribe's Jurisdiction.....	1-11
10.01.29	Relinquishment of Assignment.....	1-11
10.01.30	Exchanges and Transfers of Assignments- Generally.....	1-12
10.01.31	Exchanges and Transfers of Assignments- Procedure.....	1-12
10.01.32	Procedure for Applying for Assignments of Land and for Assigning Vacant Residential Lots.....	1-13
10.01.33	Certificate of Assignment - Issuance.....	1-15
10.01.34	Certificate of Assignment - Reassignments.....	1-15
10.01.35	Certificate of Assignment - Records.....	1-15
10.01.36	Revocation of Assignments.....	1-15

10.01.37	Procedure for Revocation of Assignments.....	1-17
10.01.38	Administration of the Chapter by Tribal Council.....	1-18
10.01.39	Residential Leases	1-18
10.01.40	Residential Leases-Conversion to Lot Assignment at End of Lease Term or Satisfaction of Leasehold Mortgage.....	1-19
10.01.41	Inheritance of Residential Lease	1-19
10.01.42	Assignment of New Lot and Replacement of Home by Tribal Council	1-20
10.01.43	Status of Lot Upon Repossession of Home	1-20

Chapter 10.02 Eviction Procedures

10.02.01	Eviction Procedures – Generally.....	2-1
10.02.02	Definitions.....	2-1
10.02.03	Occupier of Real Property	2-2
10.02.04	Unlawful Detainer.....	2-3
10.02.05	Unlawful Detainer – Notice	2-4
10.02.06	Unlawful Detainer – Complaint and Summons.....	2-4
10.02.07	Unlawful Detainer – Service of Summons and Complaint	2-5
10.02.08	Unlawful Detainer – Writ of Restitution.....	2-5
10.02.09	Judgment.....	2-5
10.02.10	Enforcement.....	2-6
10.02.11	Disposition of Personal Property	2-6
10.02.12	Alternative Remedies – Repealed.....	2-6

Chapter 10.03 Leasehold Mortgages

10.03.01	Purpose.....	3-1
10.03.02	Definitions.....	3-1
10.03.03	Priority	3-2
10.03.04	Recording.....	3-3
10.03.05	Leasehold Mortgage Foreclosure Proceedings.....	3-5
10.03.06	Service of Process and Procedure	3-6
10.03.07	Certified Mailing to Tribe.....	3-6
10.03.08	Intervention.....	3-7
10.03.09	Cure of Default by Subordinate Lienholder	3-7
10.03.10	Power of the Tribal Court.....	3-7
10.03.11	No Redemption	3-8
10.03.12	No Deficiency Judgment	3-8
10.03.13	Remedies Exclusive.....	3-8
10.03.14	No Merger.....	3-8
10.03.15	Restrictions on Sale, Transfer, Conveyance of Leasehold	3-8
10.03.16	Savings Clause, Severability Pending Actions	3-9

Chapter 10.04 Tribal Prevailing Wages

10.04.01	Purpose.....	4-1
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10.04.02	Definitions.....	4-1
10.04.03	Findings.....	4-2
10.04.04	Tribal Prevailing Wage Administrator.....	4-2
10.04.05	Payment of Prevailing Wages -Prevailing Wages to Be Paid.....	4-3
10.04.06	Payment of Prevailing Wages -Frequency of Payments.....	4-3
10.04.07	Payment of Prevailing Wages -Certified Payrolls.....	4-3
10.04.08	Contracts and Agreements-Generally.....	4-3
10.04.09	Subcontracts and Sub-Agreements.....	4-4
10.04.10	Contracts and Agreements-Failure to Include Provisions.....	4-4
10.04.11	Failure to Pay Prevailing Wages -Termination of Contract or Agreement.....	4-4
10.04.12	Failure to Pay Prevailing Wages -Withholding of Wages Due.....	4-4
10.04.13	Failure to Pay Prevailing Wages -Breach of Contract or Agreement.....	4-4
10.04.14	Right of Action.....	4-5
10.04.15	Tribal Prevailing Wages Administrator to Determine Amount ...	4-5
10.04.16	Factual Basis for Prevailing Wage Determinations.....	4-5
10.04.17	Effective Date for Prevailing Wage Determinations.....	4-5
10.04.18	Supplemental Determinations.....	4-6
10.04.19	Exceptions.....	4-6
10.04.20	Preemption.....	4-6
10.04.21	Tribal Court.....	4-6
10.04.22	Sovereign Immunity.....	4-6
10.04.23	Savings Clause, Severability.....	4-7
10.04.24	Effective Date.....	4-7

Chapter 10.05 Port Gamble S’Klallam Housing Authority

10.05.01	Establishment of the Housing Authority.....	5-1
10.05.02	Sovereign Immunity.....	5-1
10.05.03	Declaration of Need.....	5-1
10.05.04	Purposes.....	5-2
10.05.05	Definitions.....	5-3
10.05.06	Board of Commissioners.....	5-4
10.05.07	Voting Authority.....	5-6
10.05.08	Meetings.....	5-6
10.05.09	Intent.....	5-6
10.05.10	Area of Operation.....	5-6
10.05.11	Litigation and Sovereign Immunity.....	5-6
10.05.12	Other Powers.....	5-7
10.05.13	Purpose and Intent-Financing.....	5-12
10.05.14	Applicability.....	5-12
10.05.15	Issuance of Obligations.....	5-12
10.05.16	Liability.....	5-13
10.05.17	Debts.....	5-13
10.05.18	Status of Obligations.....	5-13
10.05.19	Issuance and Sale of Obligations.....	5-13

10.05.20	Negotiability of Obligations.....	5-14
10.05.21	Power of Authority Over Obligations.....	5-14
10.05.22	Annual Reports.....	5-16
10.05.23	Interests - Acquisitions and Disclosures Conflict of Interest.....	5-17
10.05.24	Bond Coverage	5-17
10.05.25	Property Taxes and Assessments - Exempt	5-17
10.05.26	Levy and Sales - Exemption of Properties	5-17
10.05.27	Cooperation in Connection with Projects.....	5-18
10.05.28	Tribal Policies and Procedures.....	5-18
10.05.29	Elimination of Unsafe and Unsanitary Housing	5-19
10.05.30	Savings Clause, Severability, Pending Actions	5-19

TITLE 10

TRIBAL LAND

Chapter 10.01 Land Assignment

10.01.01 Purpose

The purpose of this chapter is to set forth the custom, practice, and policy of the Port Gamble S'Klallam Tribe for assigning parcels of tribal trust land to individual members, and to preserve and regulate this tribal resource by providing for the orderly distribution of land assignments. It is the intent of this chapter to encourage the timely development and inhabitation of assigned lots by tribal members.

The Tribal Council shall be guided by the following principles in making lot assignment decisions:

- a) Assignments of Vacant Lots. The Tribal Council shall make decisions regarding assignments of vacant lots in a manner that "keeps the lot list moving." If a person assigned a lot cannot comply with the requirements within the time frames set by the Code, another tribal member should be given an opportunity to have the lot.
- b) Assignments of Lots with Homes. The Tribal Council will be making decisions on lot assignments when a home is being (re)moved from a lot as well as when an eligible person is seeking to purchase a home and be assigned the lot where the home is located. In these situations, the Tribal Council recognizes that the reservation is a limited market and shall respect the need of residents to obtain the best price possible when selling a home. Unless there is good cause to deny a request, the Council shall approve the reassignment of a lot to a tribal member who purchases the home. The Tribal Council may condition its approval on review and approval of the purchase and sale agreement or other financing documents.
- c) Recommendation from the Housing Authority. When a decision regarding a lot assignment may also involve policies of the Port Gamble S'Klallam Housing Authority, the Tribal Council shall request a recommendation from the Housing Authority to assist the Tribal Council to avoid making a decision that may conflict with Housing Authority policies.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79. Formerly, "Port Gamble S'Klallam Tribal Land Assignment Ordinance", this chapter was renumbered and slight changes in wording made to facilitate codification. Resolution 95 A 044, passed 3/23/95 amended this section to add the last sentence. Resolution 07 A 026 passed 3/30/07 amended this section to add the guiding principles.]

10.01.02 Definitions

Words in this chapter shall have the meaning given to them in this section unless the context clearly indicates another meaning. If the meaning of a word is not clear, the Community Court shall construe the meaning of the word in harmony with the purpose of this chapter.

- a) "Assignable land" means land available for assignment as defined in section 10.01.09 of this chapter.
- b) "Minor" means a person under the age of eighteen years.
- c) "Stable relationship" means two people who are not married but who have been living together in a family-type relationship for one or more years and who, in the opinion of the Tribal Council, have demonstrated sufficient maturity and responsibility to receive an assignment of tribal land.
- d) "Tribal Council" means the Port Gamble S'Klallam Tribal Council as set forth under the Constitution of the Port Gamble S'Klallam Tribe.

[HIST: Source - Resolution 84 A 03, passed 2/14/84. Resolution No. 79 A 62, passed 8/24/79. Amendments - Resolution No. 84 A 03 amended this section, adding the portion which precedes subsection a).]

10.01.03 Persons Eligible for Assignment.

Enrolled members of the Port Gamble S'Klallam Tribe who are eighteen years of age or older are eligible to hold an assignment of tribal trust land, and members under the age of eighteen who are married or who have a stable relationship shall also be eligible for an assignment. There shall be only one assignment per family. For the purpose of this section, "family" means the parents and their minor children unless the minor children are eligible for an assignment under this section.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79.]

10.01.04 Use of Property.

- a) Permanent Home Sites. Parcels of tribal trust land assigned to individual members shall be used only as permanent home sites for members and their immediate family.
- b) One Dwelling Per Lot. There shall be only one occupied dwelling unit (house or mobile home) allowed per assigned lot. There shall be no occupied travel trailers or motor homes parked on assigned lots for other than short periods of time.
- c) Beaches Remain Under Tribal Control. All beaches adjacent to or part of an assigned lot shall remain under tribal control and shall be

open for use by all members of the Port Gamble S'Klallam Tribe under whatever rules and regulations the Tribal Council may provide.

- d) Use of Felled Timber. A person assigned a lot under this code may retain the proceeds from timber that was felled on their lot for home site clearing or for safety reasons.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79. Resolution 95 A 044, passed 3/23/95 amended this section to add the second sentence. Resolution 07 A 026 passed 3/30/07 amended this section to add subsection (d).]

10.01.05 Interest Conveyed.

When a person is assigned a parcel of tribal trust land, the interest he or she takes is only a permissive right of occupancy, not ownership, which may be revoked at any time in accordance with the provisions of this chapter. Title to tribal trust land which is assigned shall remain in the United States in trust for the Port Gamble S'Klallam Tribe. The power and responsibility to control the alienation, transfer, lease, inheritance or devise of the assigned land shall be retained by the Tribe, and no interest in the land shall be alienated, transferred, leased, or encumbered in any way without the written permission of the Port Gamble S'Klallam Tribal Council.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79.]

10.01.06 Requirement to Improve and Develop the Land

Any person who receives an assignment of a parcel of tribal land shall improve the land within one year after the date of the assignment or the assignment shall be subject to revocation. For the purposes of the section, "improve" shall mean:

- a) One year from the date the lot is assigned:
- i) The driveway/access route shall be cleared and a culvert installed, where needed, for drainage and the building site shall be cleared, so that they are suitable for the construction or installation of a residence, and,
 - ii) Application for all necessary utilities has been made (power, water, sewer); and
- b) Two years from the date the lot is assigned:
- i) A mobile or manufactured home has been installed, utility service is being provided and it is inhabited as the assignee's primary residence, or

- ii) Construction of a conventional home is in progress; and
- c) Three years from the date the lot is assigned (Conventional homes only):
 - i) Utility service is being provided to the conventional home and it is inhabited as the assignee's primary residence.

The following shall not be considered "improvements to the lot" and therefore shall not be counted toward meeting the prescribed time limits for lot improvements set forth above:

- a) Travel trailers, tents or other temporary dwellings;
- b) Motor homes;
- c) Any dwelling constructed or placed on a lot that is:
 - i) Not structurally sound;
 - ii) Does not have safe wiring;
 - iii) Does not have sanitary, working plumbing; and
 - iv) Is not otherwise safe for occupancy.

If any or all of the above conditions are not complied with, the assignment shall be subject to revocation.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79. Resolution 00 A 045, passed 6/12/00 amended this section to require culverts where needed and replaced the term "modular" with "manufactured" homes. Resolution 95 A 044, passed 3/23/95 amended this section to specify the clearing and improvement requirements. Resolution 07 A 026 passed 3/30/07 amended this section to add the language clarifying the types of dwellings that are not improvements to the lot.]

10.01.07 Ownership of Improvements

Any house, building, structure, or other improvement placed on an assigned lot by any person or entity other than the Port Gamble S'Klallam Tribe shall be designated as personal property, not real property, and shall not be deemed affixed to the realty. Title to said improvement shall remain in the person or entity which placed it on the assigned lot and shall not pass to the Tribe, unless otherwise agreed in writing or unless there has been a declaration of abandonment from the Port Gamble S'Klallam Community Court.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79.]

10.01.08 Disposition of Improvements

It shall be the responsibility of the owner of improvements to arrange for their removal or sale when he or she, for whatever reason, no longer holds the assignment on which it is located. If the owner of improvements fails to arrange for their removal or sale within six (6) months after he or she moves from the assignment, the improvements shall be considered abandoned and the Tribal Council has the right, after appropriate notice to the owner, to seek a declaration of abandonment in the Port Gamble S'Klallam Community Court. In seeking a declaration of abandonment from the Court, the Tribal Council shall follow the procedures established in Chapter 3.11 of this Code.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79. Cross References - Chapter 3.11, Abandonment of Property Procedures.]

10.01.09 Land Available for Assignment

Only tribal land which is designated by the Tribal Council for residential use shall be used for assignment to tribal members.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79.]

10.01.10 Size of Assigned Lots

The Tribal Council shall determine the size of assigned lots. A lot holder may request that the Council divide an existing, assigned lot(s). The proposed division shall first be reviewed by the Tribe's Planning Department for access, utilities and other site issues. The Planning Department shall give a recommendation to the Council on the advisability of the division. If granted, separate lots shall be created, new numbers assigned, and the assignments of the newly created lots shall be made by resolution.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79. Resolution 95 A 044, passed 3/23/95 amended this section retaining the one acre lot size but omitting the 200 feet by 200 feet lot dimensions. Resolution 07 A 026 passed 3/30/07 amended this section to leave the lot size to the discretion of the Tribal Council and allow for dividing lots.]

10.01.11 Tenure of Assignment

The holder of an assignment shall be entitled to the use and occupancy of the assignment for his or her lifetime, in accordance with the provisions of this chapter.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79.]

10.01.12 Assignment to Couples

Assignment of tribal property to married couples and to unmarried couples in a stable relationship shall be made in the names of both persons. However, if one person is not a member of the Port Gamble S'Klallam Tribe, the assignment shall be made only in the name of the person who is a member.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79.]

10.01.13 Disposition of Assignment at Death – Tribal Council Procedure

Within twelve (12) months of the death of a person who holds an assignment of tribal land or of a non-member who has been residing on tribal land with the agreement of the Tribal Council, the Tribal Council shall hold a hearing on the lot assignment. The time may be extended by the Tribal Council, for good cause.

The Tribal Council has sole jurisdiction to decide the disposition of the lot assignment, subject to the provision of this code. Historically, ownership of homes located on an assignment following a death, has been decided by tribal custom, often through a family meeting process. If a dispute or question arises, the Tribal Court shall have sole jurisdiction to decide any question regarding ownership of a home located on a lot assignment. The Tribal Council has standing to bring an action requesting that the Tribal Court determine ownership of a home, if such determination is necessary for the Tribal Council to determine the disposition of the lot. However, the Tribal Council shall take no position in such an action as to who should be awarded the home. A tribal member with a home on a lot assignment may leave his or her home to another tribal member in a will. The Tribal Council shall generally assign the lot to a tribal member who inherits under a valid will, provided the person is eligible to hold a lot under this code.

[HIST: Source - Resolution 07 A 026 passed 3/30/07 added this section.]

10.01.14 Disposition of Assignment at Death - Member Spouse

At the death of a married person who holds an assignment of tribal land, the assignment shall pass to his or her surviving spouse if the surviving spouse is a member of the Port Gamble S'Klallam Tribe.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79.]

10.01.15 Disposition of Assignment at Death - Non-Member Spouse

- a) At the death of a married person who holds an assignment of tribal land, the assignment shall not pass to his or her surviving spouse if the surviving spouse is not a member of the Port Gamble S'Klallam

Tribe. The assignment shall be reviewed by the Tribal Council. The Tribal Council shall have the power to revoke the assignment and if appropriate, reassign it, or allow the non-member surviving spouse to continue living on the assignment under terms and conditions set by the Tribal Council and consistent with this chapter. A non-member surviving spouse shall be allowed to continue to use the assignment for the benefit of the couple's minor children who are members of the Port Gamble S'Klallam Tribe.

- b) If the Tribal Council has allowed the non-member surviving spouse to live on the assignment as provided above, upon death of the non-member surviving spouse, the Tribal Council shall, within such time frames as it sees fit and upon notice given,
 - i) Assign the lot to a tribal member who inherits the house under a will, or by intestate succession (the legal heir), or by a legal succession designation through a Housing Authority program.
 - ii) Allow the heir(s) or person inheriting the house under a will (devisee) to remove the home under such terms and conditions as the Council approves. The Tribal Council may then reassign the lot; or
 - iii) Allow the heir(s) or person inheriting the house under a will (devisee), or Personal Representative/Executor (if he or she has been given such authority under the will or by the Court), to sell the home to a member of the Port Gamble S'Klallam Tribe who is not otherwise prohibited from having a lot assignment. The Tribal Council may then reassign the lot to the buyer. If the home was not paid for, the lender must approve the assumption of the loan, prior to approval of the assignment by the Tribal Council.
 - iv) If the home is not removed or sold within the time frames set by the Tribal Council, the Tribal Council may seek a declaration of abandonment and related remedies under this code and Title 3. This subsection is not intended to shorten the time periods required for an abandonment procedure.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79. Resolution 07 A 026 passed 3/30/07 amended this section to add subsection (b).]

10.016 Disposition of Assignment at Death - Remarriage of Non-Member Spouse

If a non-member surviving spouse who has been allowed to continue using an assignment remarries, and his or her new spouse is also a non-member, the couple shall not be allowed to continue using the assignment.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79.]

10.01.17 Disposition of Assignment at Death - Surviving Children

If a member who holds an assignment dies leaving no spouse, and no non-member spouse who has been authorized by the Tribal Council to continue to live on the assignment, the assignment may be inherited by one of his or her surviving children who is a member of the Port Gamble S'Klallam Tribe and who is otherwise eligible to hold an assignment under this chapter. The specific child who is to receive the assignment may be designated in the person's will or by written request to the Tribal Council. If the member holding the assignment fails to designate one of his or her children to inherit it, or if the designated person is ineligible to hold an assignment, the eligible children may decide among themselves which of them is to receive the assignment. In case of dispute or inability of the eligible children to decide, the Tribal Council shall decide which, if any, eligible child shall receive the assignment. If the surviving child or children are minors, and members of the Port Gamble S'Klallam Tribe, the Tribal Council shall allow the minor's guardian to use the assignment for the benefit of the children until one or more of the children are eligible to receive an assignment.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79. Amended Resolution 07 A 026 passed 3/30/07.]

10.01.18 Disposition of Assignment at Death - Name During Assignment's Use

In any case where a non-member surviving spouse or a minor's guardian is allowed to use the assignment, during such use the assignment shall continue in the name of the deceased member spouse or an eligible surviving child, whichever is appropriate.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79.]

10.01.19 Disposition of Assignment at Death –Disposition if No Survivors

If the person holding the assignment dies leaving no surviving spouse and no child who is a member of the Port Gamble S'Klallam Tribe, and has not designated a successor to the home with the Housing Authority or devised the home to a tribal member who is eligible to hold a lot assignment by valid will, the assignment shall automatically revert to the Tribe.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79. Amended by Resolution 07 A 026 passed 3/30/07.]

10.01.20 Disposition of Assignment at Death - Unmarried Couple

At the death of one of the parties of an unmarried couple who holds an assignment, the surviving member of the couple shall be considered as the "surviving spouse" for the purpose of the operation of this section

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79.]

10.01.21 Disposition of Assignment on Divorce - Member Spouse

If a married couple holding an assignment of tribal land divorce, and both spouses are members of the Port Gamble S'Klallam Tribe, the spouse having custody of the couple's minor children who are members of the Port Gamble S'Klallam Tribe shall have the right to continue holding the assignment. If the couple has no minor children, the spouses may decide between themselves which spouse shall continue holding the assignment and shall so notify the Tribal Council in writing. If the spouses do not decide, the Tribal Council shall decide which, if either, spouse shall continue holding the assignment.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79.]

10.01.22 Disposition of Assignment on Divorce - Non-Member Spouse

If the spouse having custody of the couple's minor children is not a member of the Port Gamble S'Klallam Tribe, the assignment shall be reviewed by the Tribal Council. The Tribal Council shall have the power to revoke the assignment, reassign it, or allow the non-member spouse with custody to continue living on the assignment under terms and conditions set by the Tribal Council and consistent with this chapter.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79. Amendments - Resolution No. 84 A 03, amended this section omitting the former language "...and provided further that the non-member spouse with custody shall be allowed to continue using the assignment for the benefit of the couple's minor children who are members of the Port Gamble S'Klallam Tribe." The purpose of omitting this language is to make it clear that the Tribal Council may exercise discretion in disposing of assignments in cases of non-member spouses with custody of the children.]

10.01.23 Disposition of Assignment on Divorce - Remarriage of Non-Member Spouse.

If the non-member spouse who has been allowed to continue using the assignment remarries, and his or her new spouse is also a non-member, the couple shall not be allowed to continue using the assignment.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79.]

10.01.24 Disposition of Assignment on Divorce - No Member Child or Spouse.

If the couple has no minor children, a divorced spouse who is not a member of the Port Gamble S'Klallam Tribe shall not be eligible to continue using the assignment.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79.]

10.01.25 Disposition of Assignment on Separation of Unmarried Couple.

If an unmarried couple holding an assignment separates and no longer lives together, the members of the couple shall be considered "Spouses" for purposes of the operation of sections 10.1.21 through 10.1.24.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79. Amended by Resolution 07 A 026 passed 3/30/07 to edit the numbering.]

10.01.26 Moving from the Reservation – Notice to Tribal Council-Termination.

If a person who holds an assignment moves from the jurisdiction of the Port Gamble S'Klallam Tribe for more than one (1) year, he or she must so notify the Tribal Council and request permission to retain the lot. The request must include:

- a) The date he or she intends to return;
- b) The arrangements that have been made for occupancy of the home such as oral or written rental agreement;
- c) The names of all persons residing in the home.

The Tribal Council has the right to revoke the lot or allow the person to retain the lot under such conditions and for such duration as the Council shall specify. The following shall not be considered "moving from the reservation": military service, attending college, or staying in a nursing home or related health care facility. A non-tribal member shall not be allowed to be the primary tenant or occupant in any such arrangement. The lot holder retains responsibility for the lot assignment so long as he or she holds the assignment.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79. Resolution 07 A 026 passed 3/30/07 amended this section to elaborate on the process of notifying the Council.]

10.01.27 Moving from the Reservation - Failure to Notify.

If a person does not notify the Tribal Council as provided by section 10.01.26, the Tribal Council shall notify the person that his or her assignment may be revoked unless the Tribal Council receives written notice from the person with all the information required under section 10.01.26, within thirty (30) days of the Council's notice.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79. Amended by Resolution 07 A 026 passed 3/30/07]

10.01.28 Moving from Lot Assignment – Within Tribe’s Jurisdiction.

A lot holder retains responsibility for the lot assignment so long as he or she holds the lot, regardless of actual residence. A non-tribal member shall not be allowed to be the primary tenant or occupant during the lot holder’s absence. The Tribal Council reserves the right to place further restrictions on moving from an assigned lot while staying within the jurisdiction of the Tribe, through amendment of this code.

[HIST: Source – New section added by Resolution 07 A 026 passed 3/30/07.]

10.01.29 Relinquishment of Lot Assignment.

A person holding an assignment may relinquish it to the Tribe at any time by signing a written statement to that effect and filing it with the Tribal Council. By signing the written statement, a person relinquishes all his or her rights and interest in the assignment and any improvements thereon as of the date specified in the statement or if no date is specified in the statement, 30 days after the statement is received by the Tribal Council. The Tribal Council shall specify in the resolution accepting the relinquishment of the assignment whether or not the assignment will be made available for reassignment.

- a) Relinquishment of Enrollment - Automatic Revocation of Lot. If a person relinquishes his or her enrollment in the Port Gamble S’Klallam Tribe, his or her interest in a lot assignment is automatically revoked.
- b) Reassignment of Vacant Lot. If a vacant lot has been relinquished and the Council has determined that it will be reassigned, the Tribal Council shall assign the lot to the first person on the lot waiting list.
- c) Reassignment When House is Uninhabitable. If a lot has been relinquished and has an uninhabitable house on it, and the Tribal Council has determined that the lot will be reassigned, the Tribal Council shall specify in the resolution assigning the lot, who shall bear the cost of demolition (the former lot assignment holder, the new lot assignment holder or the Tribe.)
- d) Reassignment When a Home is Not Uninhabitable. The Tribal Council shall specify how home that is not uninhabitable will be disposed of when a lot is relinquished.
 - i) If the lot is not going to be reassigned, the person shall be given a reasonable opportunity (not more than six months) to sell the home and have it moved from the lot.

- ii) If the lot is going to be reassigned and the terms of home ownership are under the authority of the Housing Authority, the Tribal Council shall assign the lot to the person the Housing Authority approves to take possession of the home and assume the loan.
- iii) If the lot is going to be reassigned and the home is not going to be moved and is not subject to a loan, the owner shall be given an opportunity to sell the home to another member of the Port Gamble S'Klallam Tribe.
- iv) If the lot is going to be reassigned and the home is subject to a loan that is not under the authority of the Housing Authority, the person shall be given a reasonable opportunity (not more than six months) to sell or transfer the home to another member of the Port Gamble S'Klallam Tribe, subject to approval of the lender. If appropriate, the Tribal Council may give a "conditional approval," prior to approval by the lender, and subject to final Tribal Council approval.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79. Amended by Resolution 07 A 026 passed 3/30/07 which expanded the procedures for relinquishment.]

[Cross Reference: Section 10.01.08 Disposition of Improvements, describes the process if the home is not disposed of within the time limit specified.]

10.01.30 Exchanges and Transfers of Assignments- Generally.

No person shall exchange his or her assignment with another person or transfer his or her assignment to another person without the prior written approval of the Tribal Council.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79.]

10.01.31 Exchanges and Transfers of Assignments- Procedure.

- a) Request to Tribal Council. Persons wishing to exchange or transfer their assignments shall request permission from the Tribal Council in writing, stating the reason(s) the exchange or transfer is desired. The Tribal Council may require the person(s) to appear personally.
- b) Basis for Decision. The Tribal Council may grant or deny the request, whichever action it believes to be in the best interest of the Port Gamble S'Klallam Tribe. The Tribal Council shall not approve the request unless the requestor(s) is eligible to receive a lot assignment under this code, including sections 10.01.03 and 10.01.32, if applicable. In cases where there is no home ready for occupancy on one or both lots involved, all of the requirements of section 10.01.06 to timely improve and develop the lot must be met. The Tribal Council shall specify what time limits shall apply to each lot

transferred and exchanged. If there is a home on one or both lots, the Tribal Council shall require a written plan signed by all parties, with timelines for implementing the exchange or trade and proof of sale or transfer as a gift. If a home has not been paid for, approval of the lender is required and proof of approval given to the Tribal Council, prior to approving such an exchange or transfer.

If appropriate, the Tribal Council may give a “conditional approval,” prior to approval by the lender, and subject to final Tribal Council approval.

- c) “Switching” Places on the Lot List. The Tribal Council receives requests from individuals who are on the lot waiting list to trade their position on the lot list with a person who holds a lot assignment. The Tribal Council shall not grant these requests unless the holder of the assignment owns a home on the assignment that he or she is going to transfer by sale or gift to the person on the lot list in the event that the transfer is approved. The Tribal Council shall require a written plan and approval of the lender or proof of transfer by gift, prior to approving such a transfer.
- c) New Certificates Upon Approval. If the request for exchange or transfer is approved, new Certificates of Assignments shall be issued in the appropriate names.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79. Resolution 00 A 045, passed 6/12/00 amended this section to clarify that a person receiving a lot assignment by exchange or transfer must be eligible to receive a lot and must comply with all the requirements for improving and developing a lot. The Council shall specify in each case of transfer or exchange the time limits for improvement and development for the person being assigned the lot. Amended by Resolution 07 A 026 passed 3/30/07 to add the prohibition on switching places on the lot list.]

10.01.32 Procedure for Applying for Assignments of Land and for Assigning Vacant Residential Lots.

Application for an assignment of tribal land where no existing home is being acquired along with the lot shall be made in the following manner:

- a) Application Required. A person who wishes to have a parcel of tribal land assigned to him or her shall apply in writing to the Tribal Council. The application shall be filed with the tribal program designated by the Tribal Council to administer the lot assignment process. The application shall contain the name of the person or persons applying, and such other information as the Tribal Council or the tribal program designated by the Tribal Council to administer the lot assignment process deems necessary.
- b) Lot Plan Required. A person who wishes to have a parcel of tribal land assigned to him or her must also submit a completed lot plan

with a proposed time schedule and cost estimates for clearing, grading, driveway and culvert work, building or setting up the home, utility hook ups, and such other information as the Tribal Council or the tribal program designated by the Tribal Council to administer the lot assignment process deems necessary.

- c) Lot Waiting List. If assignable lots are not available, and there has been a preliminary determination that the applicant for a lot is eligible, that person's name shall be entered on an Official Lot Waiting List. That list shall show the name of the applicant, the date that the application was received, and the applicant's position on the list.
- d) Lot Waiting List-How Order is Determined. The lot waiting list shall be maintained on a "first come-first served" basis. The first person to file a completed lot application, and to have submitted a completed lot plan shall have first priority when a lot becomes available for assignment. If two or more applicants complete their last requirement on the same day, priority shall be given to the first person to have filed a lot application.
- e) Choice of Lots. When a lot becomes available for assignment at a later date, the first person on the Official Lot Waiting List shall be offered that lot, or choice of lots if several are available. If that person does not want the lot or lots available he or she will be passed over and the second person on the list shall be offered the lot or lots available. If that person does not want the lot or lots available, he or she will be passed over and the third person shall be offered the lot or lots, etc., until the lot or lots have been awarded. As a person is passed over, he or she shall retain his or her position on the list with regard to new lots becoming available or shall be moved to a higher priority as a name higher up on the list is removed because a lot has been awarded.
- f) Decision by Tribal Council on Assignment. The Tribal Council shall officially review and consider the application and lot plan and decide whether or not to assign the parcel to that person. The person has the option of appearing at the Council meeting when his or her application is being considered and the Council, in its discretion, may require the person to appear. The Council shall notify the applicant of its decision in writing. If the Tribal Council denies the request, it shall inform the applicant of the reasons for the denial.
- g) Records of Tribal Council Actions. The Tribal Council shall assign tribal land by resolution.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79. Resolution 00 A 045, passed 6/12/00, amended this section to codify the practice that a tribal department may be delegated the task of managing the lot waiting list. The Planning Department has done

this in the past and Housing was responsible at the time the amendment was adopted. The amendment also codifies the practice of requiring a lot plan and two lot classes be completed as a condition of lot assignment. The order of the lot list changed from the first person on the lot waiting list to have completed his requirements to the first person to complete his or her requirements regardless of when he or she signed up for a lot. The Resolution names 16 individual tribal members who had completed their requirements and "grandfathers" their position of the lot waiting list. The new rules are effective for individuals completing their requirements after 6/12/00. Resolution No. 95 A 044, passed 3/23/95 amended this section codifying the assignment practice that has been followed for many years. Amended by Resolution 07 A 026 passed 3/30/07 to clarify the lot waiting list rules, and to repeal the requirement of lot classes.]

10.01.33 Certificate of Assignment - Issuance.

Every assignment of tribal land made by the Tribal Council shall be evidenced by a Certificate of Assignment which shall describe the property assigned, list the names of the person(s) to whom the parcel is assigned, the date of the assignment and its duration, any terms and conditions of occupancy, and shall be signed by the Chairman and one other member of the Tribal Council. The Certificate shall be given to the person named in it and a copy shall be kept on file at the Tribal Office.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79.]

10.01.34 Certificate of Assignment – Reassignments.

A new certificate shall be issued any time an assignment is reassigned, including reassignments which result from death, divorce, moving from the reservation, exchanges or transfer, relinquishment, or revocation.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79.]

10.01.35 Certificate of Assignment – Records.

A complete record of assignments shall be maintained in the Tribal Office and shall indicate the status of each parcel of assignable land. The records shall be open for inspection by members of the Port Gamble S'Klallam Tribe. Other persons may inspect the records for limited purposes if specifically authorized by the Tribal Council.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79.]

10.01.36 Revocation of Assignments.

- a) Grounds for Revocation. The Tribal Council has the power to revoke any assignment which is being used contrary to the provisions of this chapter or when the Tribal Council finds that, a) occupying the lot poses or would pose a serious threat to human health or safety, or, b) occupying the lot poses or would pose a serious threat to tribal resources, or, c) revocation of the lot is necessary due to an overriding tribal interest, that benefits the tribal community. This

power is in addition to the power to revoke provided for in other sections of this chapter. The Tribal Council shall specify in the resolution revoking the assignment whether or not the assignment will be made available for reassignment.

- b) Assignment of New Lot. If the lot was revoked through no fault of the person who held the assignment, the Council may, in its discretion and subject to availability, assign the person another lot.
- c) No Reassignment When Person is at Fault. If the lot was revoked due to the fault of the person who held the assignment, the Council shall generally not assign another lot to the person but may, in its discretion do so if circumstances so warrant. The individual may apply to be placed at the end of the lot waiting list.
- d) Reassignment of Vacant Lot. If a vacant lot has been revoked and the Council has determined that it will be reassigned, the Tribal Council shall assign the lot to the first person on the lot waiting list.
- e) Reassignment When House is Uninhabitable. If a lot has been revoked and has an uninhabitable house on it, and the Tribal Council has determined that the lot will be reassigned, the Tribal Council shall specify in the resolution assigning the lot, who shall bear the cost of demolition (the former lot assignment holder, the new lot assignment holder or the Tribe.)
- f) Reassignment When a Home Can be Sold or Moved The Tribal Council shall specify how a home that can be sold or moved will be disposed of when a lot is revoked.
 - i) If the lot is not going to be reassigned, the person shall be given a reasonable opportunity (not more than six months) to sell the home and have it moved from the lot.
 - ii) If the lot is going to be reassigned and the terms of home ownership are under the authority of the Housing Authority, the Tribal Council shall assign the lot to the person the Housing Authority approves to take possession of the home and assume the loan.
 - iii) If the lot is going to be reassigned and the home is not going to be moved and is not subject to a loan, the owner shall be given an opportunity to sell the home to another member of the Port Gamble S'Klallam Tribe.
 - iv) If the lot is going to be reassigned and the home is subject to a loan that is not under the authority of the Housing Authority, the person shall be given a reasonable opportunity (not more than six months) to sell or transfer the home to another member

of the Port Gamble S'Klallam Tribe, subject to approval of the lender. If appropriate, the Tribal Council may give a "conditional approval," prior to approval by the lender, and subject to final Tribal Council approval.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79. Resolution 00 A 045, passed 6/12/00 amended this section to provide for revocation of a lot when occupancy poses a serious threat to human health or safety or to tribal resources. Cross Reference - Section 10.01.08 Disposition of Improvements. Amended by Resolution 07 A 026 passed 3/30/07 to expand the grounds for revocation and to add procedures for reassignment.]

[Cross Reference: Section 10.01.08 Disposition of Improvements, describes the process if the home is not disposed of within the time limit specified.]

10.01.37 Procedure for Revocation of Assignments.

Revocation of tribal land assignments shall be made in the following manner:

- a) Notice and Hearing Before the Administrative Director.
 - i) Whenever an assignment is subject to being revoked, the tribal program designated by the Tribal Council to administer the lot assignment process shall so notify the Tribe's Administrative Director in writing. The notice shall contain the specific reasons the lot is subject to revocation.
 - ii) If the Administrative Director finds that a reasonable basis exists to revoke the assignment, he or she shall notify the holder of the assignment in writing. The notice shall state the reason for the proposed action and shall inform the person that he or she may, within (30) days, file a written request to appear before the Administrative Director and present evidence as to why the assignment should not be revoked.
 - iii) If the Administrative Director receives a timely request, he or she shall notify the person of the date and time he or she is to appear. The holder of the assignment shall present any relevant evidence showing that the lot is not subject to revocation.
 - iv) The Administrative Director shall make a decision, within thirty (30) days after the person appears, whether to revoke the assignment or to grant one extension only, of not more than six (6) months, on such conditions as the Administrative Director deems appropriate.
 - v) If the holder of the assignment to be revoked does not make a timely request for a hearing or fails to appear at the scheduled hearing, the Administrative Director shall revoke the

assignment and shall so notify the holder of the assignment and the Tribal Council.

- b) Appeal to the Tribal Council. If the Administrative Director revokes a lot, the person who held the assignment may, within fifteen (15) days of receiving the decision, file a written appeal with the Tribal Council. The request shall state the specific reason(s) the person believes the lot should not have been revoked. The Tribal Council shall schedule an appeal hearing within forty (40) days of receiving the appeal and so notify the person appealing. The holder of the assignment shall present any relevant evidence showing that the Administrative Director did not properly revoke the lot. If the holder of the assignment to be revoked appears before the Tribal Council, the Council shall make its decision within thirty (30) days after the person appears and shall so notify the person appealing. The Tribal Council shall decide whether to revoke the assignment or to grant one extension only, of not more than six (6) months, on such conditions as the Tribal Council deems appropriate. If the holder of the assignment to be revoked does not file a timely appeal or fails to appear at the scheduled appeal hearing, the Tribal Council shall revoke the assignment and shall so notify the holder of the assignment.
- c) Appeal to Tribal Court. A holder of an assignment who is aggrieved by the decision of the Tribal Council to revoke his or her assignment may appeal to the Port Gamble Community Court, which shall have the power to review the Tribal Council's action only to the extent of determining whether the revocation was proper under this chapter.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79. Resolution 00 A 045, passed 6/12/00 amended this section to add a layer of appeal to the Administrative Director, to limit the number of extensions granted to one extension of not more than six months, and to clarify procedures for the appeal process. Cross Reference – Section 7.04.01 provides 20 days to file an appeal.]

10.01.38 Administration of the Chapter by Tribal Council

The Tribal Council shall make all rules and establish all procedures necessary for the administration of this chapter.

[HIST: Source - Resolution No. 79 A 62, passed 8/24/79.]

10.01.39 Residential Leases

Nothing in this Chapter shall prohibit the execution of leases for housing development and residential purposes pursuant to 25 U.S.C. §4211 for the purpose of executing a leasehold mortgage pursuant to the provisions of Chapter 10.03 of this Title.

[HIST: Source - Resolution No. 03 A 117, passed 7/15/03 adopted this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03 adopted this section following a public hearing.]

10.01.40 Residential Leases-Conversion to Lot Assignment at End of Lease Term or Satisfaction of Leasehold Mortgage.

- a) When a Tribal Member's residential lease has expired by reaching its term, it shall automatically convert to a lot assignment, unless the Tribal Member has defaulted or otherwise not met his or her financial obligation(s) to the Tribe or used the property contrary to law. The tribal program designated by the Tribal Council to administer the lot assignment process shall notify the Tribal Council at least two months before the expiration of the lease term to allow sufficient time for the Tribal Council to take action on the lot assignment.
- b) When the tribal program designated by the Tribal Council to administer the lot assignment process is notified that a Tribal member's leasehold mortgage has been fully satisfied (paid in full), the Tribal Member shall be issued a Certificate of Assignment. The program shall then notify the Bureau of Indian Affairs to cancel the lease and remove it from the reservation title.

[HIST: Source - Resolution No. 03 A 129, passed 9/09/03 adopted this section following a public hearing. Amended by Resolution 07 A 026 passed 3/30/07 to provide for conversion of leases to assignments.]

10.01.41 Inheritance of Residential Lease.

Leases of tribal land, granted to a tribal member for the purpose of obtaining financing through a leasehold mortgage, may be inherited by:

- a) Will. A tribal member/lessee may leave the remaining term of his/her residential lease to his/her spouse, or to any member of the Port Gamble S'Klallam Tribe, by will, PROVIDED, if a home located on the leased property is secured by a leasehold mortgage, the Court shall not approve transfer of the lease unless the person named in the will is approved by the lender to assume the leasehold mortgage or if the person named in the will cannot obtain the necessary federal approvals under the lease provisions and under applicable law.
- b) Intestacy (No Will.) The residential lease of a tribal member/lessee who dies without a valid will, shall pass first to his or her surviving spouse. If there is no surviving spouse, it shall pass to a surviving child who is a tribal member and at least eighteen (18) years of age. If there is more than one such child, the children may decide among themselves which of them is to inherit the lease. In case of dispute or inability of the eligible children to decide, the Court shall decide which, if any, eligible child shall receive the lease. If there is no

eligible child, the family shall be asked to make a recommendation to the Court on who should receive the lease, provided the person must be at least eighteen years of age and a member of the Tribe. If there is no such recommendation, the Court shall decide which family member will receive the lease. PROVIDED, if a home located on the leased property is secured by a leasehold mortgage, the person listed in the foregoing succession must be approved by the lender to assume the leasehold mortgage and receive the necessary federal approvals to transfer the lease or the Court must go to the next level of succession. If there is no suitable family member, the lease may be assigned to the Tribe or to any tribal member approved by the lender to assume the leasehold mortgage payments and who obtains the appropriate federal approvals for the transfer of the lease.

[HIST: Source - Adopted by Resolution 07 A 026 passed 3/30/07.]

10.01.42 Assignment of New Lot and Replacement of Home by Tribal Council.

The Tribal Council may, in its sole discretion, assign a new lot to an individual whose lot has been declared uninhabitable or unsafe. If the Tribal Council, in its sole discretion, provides a home to that individual, it shall make clear in writing whether the home is an outright gift, a no cost rental that is owned by the Tribe, or specify another ownership arrangement.

This section only applies to situations where the *land* is no longer safe or inhabitable, it is not intended to imply that the Tribal Council will assign a new lot or provide a home to a person who has allowed his or her dwelling to become unsafe or uninhabitable.

[HIST: Source - Amended by Resolution 07 A 026 passed 3/30/07.]

10.01.43 Status of Lot Upon Repossession of Home.

- a) Mandatory Revocation. If the home of a person who holds an assignment is repossessed, the Tribal Council shall revoke the assignment or accept relinquishment, if the contract or other documents relating to the purchase of the home provide for revocation or relinquishment upon repossession.

If the terms of home ownership are under the authority of the Housing Authority, the Tribal Council shall assign the lot to the person the Housing Authority approves to take possession of the home and assume the loan.

- b) Discretionary Revocation. In all cases of repossession that are not covered under subsection (a) above, the lot shall be revoked according to the lot revocation procedures under section 10.01.37.

PROVIDED, section 10.01.37 allows an extension to be granted under certain circumstances. The extension, if granted under this section, may be up to one year. However, an extension may only be considered only upon approval by the Tribal Administrator (or in case of an appeal, the Tribal Council has approval authority), of a written plan to:

- 1) Place another home on the lot,(excluding travel trailers, tents, motor homes or other temporary dwellings or any dwelling that is not structurally sound, does not have safe wiring, does not have sanitary, working plumbing; and is not otherwise safe for occupancy); or
- 2) Sell the home to a tribal member, subject to approval of the lender with respect to the financing on the home and approval of the Tribal Council with respect to reassignment of the lot.

[HIST: Source - Amended by Resolution 07 A 026 passed 3/30/07.]

[Cross Reference: 10.01.37 Procedure for Revocation of Assignments.]

Chapter 10.02 Eviction Procedures

10.02.01 Eviction Procedures – Generally

This chapter sets forth procedures for termination of certain interests in real property and for eviction of any person or entity from occupancy of real property.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84. "Evictions Procedure Ordinance," passed 10/21/78. Amendments - Resolution No. 84 A 03 amended this section to facilitate codification of ordinances. This chapter was formerly known as the "Evictions Procedure Ordinance." This chapter has been renumbered and slight changes in wording made. The former "section 2. Jurisdiction" was deleted. The Port Gamble S'Klallam Tribal Council intends this chapter to be under the jurisdictional statement found at 1.02.01.]

10.02.02 Definitions

Words in this chapter shall have the meaning given to them in this section unless the context clearly indicates another meaning.

- a) "Tribe" means the Port Gamble S'Klallam Tribe as defined in the tribal constitution.
- b) "Tribal Court" means the Port Gamble S'Klallam Community Court or other body authorized by the laws of this Tribe to exercise the powers and functions of a court of law.
- c) "Leasehold Mortgage Foreclosure" means a Leasehold Mortgage Foreclosure under the Leasehold Mortgage provisions of Chapter 10.03.
- d) "Lessor" means the Tribe, Port Gamble S'Klallam Housing Authority and any person or entity who shall have an interest in real property which for a limited time has been leased or rented to another; and the term lessor shall also include the Port Gamble S'Klallam Housing Authority which has leased real property under a Mutual Help and Occupancy Agreement, Rental Lease Agreement or other similar arrangement whereby the tenant may, on certain conditions, obtain ownership of the occupied property at the end of occupancy under the agreement; the term lessor shall also include a person or entity who was the seller under a contract for the purchase of an interest in a home which has been forfeited or terminated; the term lessor shall also include a mortgagee who has been assigned a lease in a Leasehold Mortgage Foreclosure proceeding in Tribal Court.
- e) "Tenant" means any person who occupies real property under a written lease or rental agreement.

- f) “Unlawful Detainer Action” is a suit brought before the Tribal Court to terminate a tenant’s interest in real property and/or evict a tenant from occupancy of real property.
- g) “Writ of Restitution” is an order of the Tribal Court (1) restoring an owner or lessor to possession of real property and (2) evicting a tenant or other occupant from real property.
- h) “Nuisance” is the maintenance of real property of a condition which: (1) unreasonably threatens the health or safety of the public or of neighboring land users; or (2) unreasonably and substantially interferes with the ability of neighboring property users to enjoy the reasonable use and occupancy of their property.
- i) “Waste” is spoil or destruction by a tenant of lands, gardens, trees, buildings, or other improvements which results in substantial injury to the Lessor’s interest in the property.
- (j) “Drug Related Criminal Activity” is any activity involving drugs that would constitute an offense under Chapter 5.03 of this Code.

Reference to persons by terms denoting sex shall be taken as referring to either sex. Reference to persons by a term denoting the singular shall include the plural.

[HIST: Source - “Evictions Procedure Ordinance” adopted 10/21/78. Resolution No. 84 A 03, passed 2/14/84 codified this section. Resolution No. 03 A 117, passed 7/15/03 amended this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03 adopted this section following a public hearing. Resolution N. 18 A 046, passed 5/14/18, changed the definition of “tenant” by removing the phrase “other agreement with the lessor” so that a tenant is defined as a person with a written lease or rental agreement. Also, the definition of “Unlawful Detainer Action” was clarified to mean that it only applies to tenants.]

10.02.03 Occupier of Real Property

The Tribe, a tenant, or an owner may evict a person who occupies land or other real property without notice if the occupier has no claim of a lease or title to the land or real property. A person residing on land or in real property without a written lease or rental agreement shall have no right to the unlawful detainer process set out in this chapter and the person must vacate the property immediately upon the revocation of permission by the Tribe, the owner, or the lawful tenant.

[HIST: Source - Resolution N. 18 A 046, passed 5/14/18, added this new section to assert that only lawful tenants with written leases or rental agreements have the right to the Unlawful Detainer process while persons residing on real property without any

form of written lease or rental agreement do not have the right to the Unlawful Detainer process.]

10.02.04 Unlawful Detainer

A tenant shall be guilty of unlawful detainer if he or she continues to occupy real property under any of the following situations:

- a) Without the requirement of any notice:
 - i) The term of the lease or other agreement expires; or
 - iii) The Port Gamble S'Klallam Housing Authority has terminated a person's tenancy pursuant to procedures providing a hearing before the housing authority involved; or
 - iv) After the interest of such person in a lease has been foreclosed in a leasehold mortgage foreclosure proceeding in the Tribal Court.
- b) After receiving thirty days notice, the tenant remains in possession of the property contrary to the terms of any of these notices:
 - i) That person is in default in the payment of rent, and that he shall pay the rent or surrender possession of the property; or
 - ii) That the lease of property is for an indefinite term with rent paid monthly or by some other period will terminate at the end of the month or other period; or
 - iii) That the person has failed to keep or perform a condition or covenant of the lease or agreement and that he shall perform the condition or covenant or surrender the property; or
 - iv) That the person has committed or permitted waste upon the property and shall either cease or surrender the property; or
 - v) That the person maintains a nuisance upon the property and shall either cease maintaining the nuisance or surrender the property.
- c) After receiving three days notice, the tenant remains in possession of the property contrary to the terms of any of these notices:
 - i) That such person has received notice to vacate the premises because the tenant has engaged in Drug Related Criminal Activity, or other criminal activity which imminently threatens health, safety, or the right to peaceable enjoyment of

neighboring properties; provided that a conviction shall not be required in such instances.

- ii) That such person has received notice that there exists on the rented or leased premises a condition which constitutes a threat to public health and/or safety and he or she has been given, in the alternative, to either repair such condition or to surrender the property.

[HIST: Source - "Evictions Procedure Ordinance" adopted 10/21/78. Resolution No. 84 A 03, passed 2/14/84 codified this section. Resolution No. 03 A 117, passed 7/15/03 amended this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03, adopted this section following a public hearing. Resolution N. 18 A 046, passed 5/14/18, removed language referring to an occupier of land when used next to the word tenant in order to clarify the difference between a tenant who may no longer have a valid lease and an occupier who never had a written lease. A tenant has a right to the Unlawful Detainer process but an occupier does not.]

10.02.05 Unlawful Detainer – Notice

Notices required or authorized under section 10.02.04 shall be given in writing by either:

- a) Delivering a copy personally to the tenant or to any adult member of his family residing on the premises; or
- b) Posting the notice in a conspicuous place near the entrance to the premises and by sending a copy to the tenant by certified mail, return receipt requested, properly addressed, postage prepaid.

Proof of service by either method may be made by affidavit of any adult person stating that he or she has complied fully with the requirements of the method of service used.

[HIST: Source - "Evictions Procedure Ordinance" adopted 10/21/78. Resolution No. 84 A 03, passed 2/14/84 codified this section.]

10.02.06 Unlawful Detainer – Complaint and Summons

The owner of real property or the lessor shall start an action for unlawful detainer by filing with the Tribal Court the following documents:

- a) A complaint, signed by the owner, lessor, or agent or attorney stating:
 - i) the facts on which he seeks to recover;
 - ii) a description of the property which identifies it with reasonable certainty; and

- iii) any claims for damages or compensation due from the person to be evicted; and
- b) A summons, requiring the defendant(s) to appear for a trial upon the complaint on a date and time specified in the summons. The trial date shall not be less than twenty (20) days from the date of service of the summons nor more than sixty (60) days from the date of service. The summons must notify the defendant(s) that the judgment will be taken against them in accordance with the terms of the complaint unless they file an answer with the Tribal Court and appear for trial at the time, date and place specified in the summons.

[HIST: Source - "Evictions Procedure Ordinance" adopted 10/21/78. Resolution No. 84 A 03, passed 2/14/84 codified this section. Amended on an emergency basis by Resolution No. 03 A 117, passed 7/15/03. Resolution 03 A 129 passed 9/09/03 adopted the amendments following a public hearing.]

10.02.07 Unlawful Detainer – Service of Summons and Complaint

A copy of the summons and complaint shall be served upon the defendant(s) by one of the methods in section 10.02.05.

[HIST: Source - "Evictions Procedure Ordinance" adopted 10/21/78. Resolution No. 84 A 03, passed 2/14/84 codified this section.]

10.02.08 Unlawful Detainer – Writ of Restitution

The Tribal Court shall issue a Writ of Restitution if:

- a) Notice of suit and trial is given by service of summons and complaint in accordance with the procedures provided in this chapter; and
- b) The Tribal Court finds that the tenant is guilty of an act of unlawful detainer.

[HIST: Source - "Evictions Procedure Ordinance" adopted 10/21/78. Resolution No. 84 A 03, passed 2/14/84 codified this section.]

10.02.09 Judgment

Upon issuance of a Writ of Restitution, the Tribal Court shall have authority to enter against the defendant(s) a judgment for back rent; unpaid utilities; charges due the Tribe, Port Gamble S'Klallam Housing Authority, or land owner under any lease or occupancy agreement; and for damages caused by the defendant(s) to the property other than ordinary wear and tear. The Tribal Court may award to the prevailing party his costs in bringing the suit and reasonable attorney's fees.

[HIST: Source - "Evictions Procedure Ordinance" adopted 10/21/78. Resolution No. 84 A 03, passed 2/14/84 codified this section.]

10.02.10 Enforcement

Upon issuance of a Writ of Restitution, tribal law enforcement officers shall enforce the Writ of Restitution by evicting the defendants and their property from the premises which are unlawfully occupied.

[HIST: Source - "Evictions Procedure Ordinance" adopted 10/21/78. Resolution No. 84 A 03, passed 2/14/84 codified this section.]

10.02.11 Disposition of Personal Property

In the absence of written agreement providing otherwise, personal property remaining on the premises after vacation or removal of the tenant shall become the property of the owner or lessor, which the owner or lessor may dispose of in any manner which the owner or lessor deems fit. If the owner or lessor sells any such property, the owner or lessor may deduct the costs of sale, including any administrative expense, and may also deduct any other amounts owing to the owner or lessor and shall pay the excess, if any, to the former tenant. In no event shall the owner or lessor be required to sell the property of any tenant.

[HIST: Source - Resolution No. 03 A 117, passed 7/15/03 adopted this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03, adopted this section following a public hearing. Resolution N. 18 A 046, passed 5/14/18, removed the phrase "or other occupier of real property" from this section. A person who is an occupier and who was never a tenant does not have the right to the Unlawful Detainer process. Thus, if an occupier loses property when he or she vacates the property, this section of code does not apply and is not a remedy to the occupier's situation.]

10.02.12 Alternative Remedies - Repealed

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84. "Evictions Procedure Ordinance" adopted 10/21/78. Amendments - Resolution No. 84 A 03, repealed a section providing for alternative remedies in the courts of the State of Washington and the United States, in certain instances. The repeal is not intended to limit the right to seek alternate remedies. Numbering amended on an emergency basis by Resolution No. 03 A 117. Resolution No. 03 A 129, passed 9/09/03 adopted this section following a public hearing.]

Chapter 10.03 Leasehold Mortgages

10.03.01 Purpose

The purpose of this Chapter is to avail the Port Gamble S'Klallam Tribe and its members and others designated by the Tribe of financing, including refinancing, and other funding for the construction and/or purchase and/or repair or improvement of family residences and related structures and facilities, including infrastructure on trust or otherwise restricted lands within the jurisdiction of the Port Gamble S'Klallam Tribe by prescribing procedures for the recording, priority and foreclosure of leasehold mortgages given to secure such financing or other funding.

[HIST: Source - Resolution No. 03 A 117, passed 7/15/03, adopted this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03, adopted this section following a public hearing.]

10.03.02 Definitions

- a) Tribe shall refer to the Port Gamble S'Klallam Tribe defined in the Tribal Constitution.
- b) Tribal Council shall mean the Port Gamble S'Klallam Tribal Council as set forth under the Constitution of the Port Gamble S'Klallam Tribe.
- c) Tribal Recording Clerk shall mean the person designated by the Tribal Council to perform the recording functions under this Chapter or any deputy or designee of such person.
- d) Tribal Court shall mean the Port Gamble S'Klallam Community Court or other body authorized by the laws of this Tribe to exercise the powers and functions of a court of law.
- e) Lease shall mean the lease of trust or otherwise restricted property for which a Leasehold Mortgage, as defined in this Chapter, has been or will be given.
- f) Lessor shall mean the beneficial or equitable owner of trust or otherwise restricted property under a Lease for which a Mortgage, as defined in this Chapter, has been given, or the heir(s), successor(s), executor(s), administrator(s) or assign(s) of such Lessor.
- g) Leasehold Mortgage shall mean the mortgage of a lease of trust or otherwise restricted property given to secure financing or

refinancing or other funding for the construction and/or purchase and/or repair or improvement of a family residence or residences and a related structure or structures and facilities, including infrastructure.

- h) Mortgagor shall mean the Tribe (including any entity of the Tribe), or member of the Tribe or any other person or entity authorized by resolution of the Tribal Council who has executed a Leasehold Mortgage as defined in this Chapter, or any heir(s), successor(s), executor(s), administrator(s) or assign(s) of the Tribe or tribal member or other person or entity.
- i) Mortgagee shall mean the mortgagee under any Leasehold Mortgage as defined in this Chapter or the successor(s) in interest or assignee of any such mortgagee.
- j) Subordinate Lienholder shall mean the holder of any lien, including a subsequent mortgage, perfected subsequent to the recording of a Leasehold Mortgage under this Chapter (except the Tribe with respect to a claim for a tribal leasehold tax).
- k) Leasehold Mortgage Foreclosure Proceeding shall mean a proceeding in the Tribal Court to foreclose the interest of the Mortgagor(s), and each person or entity claiming through the Mortgagor(s), in a Lease for which a Leasehold Mortgage has been given.

[HIST: Source - Resolution No. 03 A 117, passed 7/15/03, adopted this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03, adopted this section following a public hearing.]

10.03.03 Priority

A Leasehold Mortgage recorded in accordance with the recording procedures referred to in this Chapter shall have priority over any lien not perfected at the time of such recording and any subsequent lien or claim excepting a lien or claim arising from a tribal leasehold tax assessed after the recording of the mortgage. Nothing in this Chapter shall prevent any person or entity from recording a Leasehold Mortgage in accordance with state law or from filing a Leasehold Mortgage with the Bureau of Indian Affairs. Notwithstanding anything herein to the contrary, this Ordinance does not confer jurisdiction with respect to any recording under state law.

[HIST: Source - Resolution No. 03 A 117, passed 7/15/03, adopted this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03, adopted this section following a public hearing.]

(Signature)

(Title)

The Tribal Recording Clerk shall maintain the copy in the records of the recording system and shall return the original of the Leasehold Mortgage or other document to the person or entity that presented the same for recording.

- d) The Tribal Recording Clerk shall also maintain a log of each Leasehold Mortgage or other document recorded in which there shall be entered:
 - i) The name(s) of the Mortgagor(s) of each Leasehold Mortgage, identified as such;
 - ii) The name(s) of the Mortgagee(s) of each Leasehold Mortgage, identified as such;
 - iii) The name(s) of the grantor(s), grantee(s), or other designation of each party named in any other documents;
 - iv) The date and time of receipt;
 - v) The filing number assigned by the Tribal Recording Clerk; and
 - vi) The name of the Tribal Recording Clerk receiving the Leasehold Mortgage or document.
- e) The certified copies of the Leasehold Mortgages and other documents and the log maintained by the Tribal Recording Clerk shall be made available for public inspection and copying.
- f) In lieu of presenting an original Leasehold Mortgage or other document for recording, any person or entity may present a copy of the same upon which there is an original certification in substantially the following form which has been signed and sealed by a judge or clerk of the Tribal Court, the Tribal Secretary, or by a notary public or other authorized official of the State of Washington:

_____))
_____)) ss.
_____))

I certify that this is a true and correct copy of a document in the possession of _____ this date.

Given under my hand and seal this _____ day of _____.

(SEAL)

(Signature)

(Title)

(Date of Expiration of Commission, if applicable)

- g) The recording procedures set forth in this Chapter for Leasehold Mortgages shall also apply to any assignment of a Leasehold Mortgage.
- h) The Tribal Council may from time to time establish recording fees, copying fees, and fees for the certification of any document recorded under the recording system established under this Chapter.

[HIST: Source - Resolution No. 03 A 117, passed 7/15/03, adopted this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03, adopted this section following a public hearing.]

10.03.05 Leasehold Mortgage Foreclosure Proceedings

Upon the default of the Mortgagor(s) under a Leasehold Mortgage, the Mortgagee may commence a Leasehold Mortgage foreclosure proceeding in the Tribal Court by filing:

- a) A verified complaint:
 - i) Naming the Mortgagor(s) and each person or entity claiming through the Mortgagor(s) subsequent to the recording of the Leasehold Mortgage, including each Subordinate Lienholder (except the Tribe with respect to a claim for a tribal leasehold tax), as a defendant;
 - ii) Describing the property;

- iii) Stating the facts concerning the execution of the Lease and the Leasehold Mortgage; the facts concerning the recording of the Leasehold Mortgage; the facts concerning the alleged default(s) of the Mortgagor(s); and such other facts as may be necessary to constitute a cause of action;
 - iv) Having appended as exhibits true and correct copies of each promissory note, Lease, Leasehold Mortgage, or assignment thereof relating to the property; and
 - v) Including an allegation that all relevant requirements and conditions prescribed in (i) all applicable statutes and ordinances, whether tribal, federal or state, (ii) all regulations promulgated under such statutes and ordinances and (iii) the provisions of the Lease and the Leasehold Mortgage have been complied with by the Mortgagee.
- b) A summons issued as in other cases requiring the Mortgagor(s) and each other defendant to appear for a trial upon the complaint on a date and time specified in the summons. The trial date specified in the summons shall be not less than 20 nor more than 45 days from the date of service of the summons and complaint. The summons must notify the defendant(s) that judgment will be taken against the defendant(s) in accordance with the terms of the complaint unless the defendant(s) file an answer with the court and appear for trial at the time, date and place specified in the summons.

[HIST: Source - Resolution No. 03 A 117, passed 7/15/03, adopted this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03, adopted this section following a public hearing.]

10.03.06 Service of Process and Procedure

The laws of the Tribe governing service of process and all other matters relating to the conduct of Tribal Court proceedings shall apply to any Leasehold Mortgage Foreclosure Proceeding under this Chapter.

[HIST: Source - Resolution No. 03 A 117, passed 7/15/03, adopted this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03, adopted this section following a public hearing.]

10.03.07 Certified Mailing to Tribe

In any Leasehold Mortgage Foreclosure Proceeding where the Tribe is not named as a defendant, a copy of the summons and complaint shall be mailed to the Tribe by certified mail, return receipt requested, within 5 days after the issuance of the summons, but not less than 20 days prior to the date set for trial.

[HIST: Source - Resolution No. 03 A 117, passed 7/15/03, adopted this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03, adopted this section following a public hearing.]

10.03.08 Intervention

The Tribe may petition the Tribal Court to intervene in any Leasehold Mortgage Foreclosure Proceeding under this Chapter. Neither the filing of a petition for intervention by the Tribe, nor the granting of such a petition by the Tribal Court shall operate as a waiver of the sovereign immunity of the Tribe, except as may be expressly authorized by the Tribe.

[HIST: Source - Resolution No. 03 A 117, passed 7/15/03, adopted this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03, adopted this section following a public hearing.]

10.03.09 Cure of Default by Subordinate Lienholder

Prior to the entry of a judgment of foreclosure, any Mortgagor or any Subordinate Lienholder may cure the default(s) under the Leasehold Mortgage. Any Subordinate Lienholder who has cured a default shall thereafter have included in its lien the amount of all payments made by such Subordinate Lienholder to cure the default(s), plus interest on such amounts at the rate stated in the note, if any, for the Leasehold Mortgage of the Subordinate Lienholder.

[HIST: Source - Resolution No. 03 A 117, passed 7/15/03, adopted this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03, adopted this section following a public hearing.]

10.03.10 Power of the Tribal Court

If the alleged default(s) have not been cured, and if the Tribal Court should find for the Mortgagee, the Tribal Court shall enter judgment:

- a) Foreclosing the interest in the Lease of the Mortgagor(s) and each other defendant named in the complaint upon whom proper and

timely service has been made, including each such Subordinate Lienholder; and

b) Assigning such Lease to the Mortgagee.

[HIST: Source - Resolution No. 03 A 117, passed 7/15/03, adopted this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03, adopted this section following a public hearing.]

10.03.11 No Redemption

There shall be no right of redemption in any Leasehold Mortgage Foreclosure Proceeding.

[HIST: Source - Resolution No. 03 A 117, passed 7/15/03, adopted this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03, adopted this section following a public hearing.]

10.03.12 No Deficiency Judgment

No deficiency judgment shall be entered in any Leasehold Mortgage Foreclosure Proceeding.

[HIST: Source - Resolution No. 03 A 117, passed 7/15/03, adopted this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03, adopted this section following a public hearing.]

10.03.13 Remedies Exclusive

The remedies provided under this Chapter are exclusive.

[HIST: Source - Resolution No. 03 A 117, passed 7/15/03, adopted this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03, adopted this section following a public hearing.]

10.03.14 No Merger

There shall be no merger of estates by reason of the execution of a Lease or a Leasehold Mortgage or the assignment or assumption of same, including an assignment adjudged by the Tribal Court, or by operation of law, except as such merger may arise upon satisfaction of the Leasehold Mortgage.

[HIST: Source - Resolution No. 03 A 117, passed 7/15/03, adopted this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03, adopted this section following a public hearing.]

10.03.15 Restrictions on Sale, Transfer or Conveyance of Leasehold Interest

The Mortgagee shall not sell, transfer or convey any Lease or leasehold interest which has been assigned to it in a Leasehold Mortgage Foreclosure Proceeding except to the Tribe, the Port Gamble S'Klallam Housing Authority or an eligible member of the Port Gamble S'Klallam Tribe or to a person or entity so authorized by resolution of the Tribal Council.

[HIST: Source - Resolution No. 03 A 117, passed 7/15/03, adopted this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03, adopted this section following a public hearing.]

10.03.16 Savings Clause, Severability

If any paragraph, subparagraph, clause or sentence of phrase of this Chapter or regulations adopted pursuant to this Chapter shall be declared invalid, or declared invalid as applied to any person or circumstance, such decision shall not affect the validity of the remaining portions of the Chapter, and those remaining portions shall remain in full force and effect and to this end, provisions of this Chapter and any regulations adopted hereunder are declared severable.

[HIST: Source - Resolution No. 03 A 117, passed 7/15/03, adopted this section on an emergency basis. Resolution No. 03 A 129, passed 9/09/03, adopted this section following a public hearing.]

Chapter 10.04 Tribal Prevailing Wages

10.04.01 Purpose

It is the purpose of this chapter is to require the payment of prevailing wages, as determined by the Port Gamble S'Klallam Tribe, to all laborers and mechanics and to all architects, technical engineers, draftsmen, and technicians employed in the development of affordable housing under any contract, agreement for assistance, sale, or lease pursuant to the Native American Housing Assistance and Self-Determination Act of 1996, 25 U.S.C. 4101, et seq., and to all maintenance laborers and mechanics employed in the operation of any affordable housing project developed pursuant to such Act.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.02 Definitions

Words in this chapter shall have the meaning given to them in this section unless the context clearly indicates another meaning.

- a) "Contracting officer" means the person delegated the authority to administer a contract or agreement on behalf of the Tribe or an agency of the Tribe.
- b) "Davis-Bacon" means the Act of March 3, 1931, commonly known as the Davis-Bacon Act; chapter 411; 46 Stat. 1494; 40 U.S.C. 276a et seq.
- c) "NAHASDA" means the Native American Housing Assistance and Self-Determination Act of 1996, 25 U.S.C. 4101, et seq.
- d) "Tribal Council" means the Port Gamble S'Klallam Tribal Council as defined in the Tribal Constitution.
- f) "Tribal Court" means the court established by the laws of the Tribe as may now or hereafter be authorized by the laws of the Tribe to exercise the powers and functions of a court of law.
- g) "Tribe" means the Port Gamble S'Klallam Tribe.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.03 Findings

- a) Inhibition of Tribal Housing Development/Costs of Tribal Housing.

The prevailing wage requirements of federal law, when made applicable to the Port Gamble S'Klallam Tribe in connection with grants or loans for the development and operation of affordable housing, inhibit the ability of the tribal government to provide safe and affordable homes to tribal members and inordinately raise the cost of tribal housing construction.

- b) High Rates of Unemployment.

The federal prevailing wage statutes, as implemented and enforced by the federal government, serve to exacerbate the high rates of unemployment in the Indian area served by the Port Gamble S'Klallam Tribe, by requiring the employment of highly trained technicians in lieu of trainees from the tribal workforce.

- c) Wages Not Reflective of Port Gamble S'Klallam Area/ Administrative Burden.

The determination of federal prevailing wages based on political subdivisions of the States has resulted in the imposition of federal prevailing wage rates in the Indian area served by the Port Gamble S'Klallam Tribe, which do not reflect the prevailing wages paid in the Indian area served by the Tribe and has resulted in administrative burden and expense which does not serve to benefit the Tribe or its membership.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.04 Tribal Prevailing Wage Administrator

The Tribal Council shall designate an individual to be the Tribal Prevailing Wages Administrator for the Tribe who shall administer the provisions of this Chapter. The Tribal Prevailing Wages Administrator shall have authority to prescribe such procedures and guidelines for the implementation of this chapter as the Administrator shall determine are reasonable or necessary.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.05 Payment of Prevailing Wages -Prevailing Wages to Be Paid

Prevailing wages, as determined pursuant to this chapter, shall be paid to all laborers and mechanics and to all architects, technical engineers, draftsmen, and technicians employed in the development of affordable housing under any contract or agreement for assistance, sale, or lease pursuant to NAHASDA, and to all maintenance laborers and mechanics employed in the operation of any affordable housing project developed pursuant to NAHASDA under any such contract or agreement.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.06 Payment of Prevailing Wages -Frequency of Payments

Wages required to be paid under this chapter shall be paid not less frequently than bi-monthly, and more frequently if required by contract or agreement.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.07 Payment of Prevailing Wages -Certified Payrolls

All persons and entities required to pay prevailing wages under this chapter shall submit certified payrolls to the Contracting Officer within one week after such wages are required to be paid.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.08 Contracts and Agreements-Generally

Any contract or agreement for assistance, sale, or lease pursuant to NAHASDA, shall contain a provision requiring that not less than prevailing wages, as determined by the Tribe, shall be paid to all laborers and mechanics and to all architects, technical engineers, draftsmen, and technicians employed in the development of affordable housing under such contract or agreement and to all maintenance laborers and mechanics employed in the operation of any affordable housing project under such contract or agreement.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.09 Subcontracts and Sub-Agreements

The provisions set forth in 10.04.08 shall also be included in any subcontract or any sub-agreement at any tier.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.10 Contracts and Agreements-Failure to Include Provisions

Failure to have included the provisions required in section 10.04.08 and 10.04.09 shall not relieve any person or entity from the obligation to pay prevailing wages as required under this chapter.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.11 Failure to Pay Prevailing Wages -Termination of Contract or Agreement

The contract or agreement with any person or entity who has failed to pay the prevailing wages required by this chapter may be terminated by written notice and the person or entity who has failed to pay the prevailing wages shall be liable for any and all costs occasioned on account of the termination.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.12 Failure to Pay Prevailing Wages -Withholding of Wages Due

There may be withheld from the payment due under any contract or agreement the amount of any wages required to be paid under this chapter and such sums may be paid directly to the person or persons otherwise entitled to such payments.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.13 Failure to Pay Prevailing Wages -Breach of Contract or Agreement

In addition to the remedies stated in this chapter, the failure of any person or entity to pay the prevailing wages required by this chapter shall also be deemed to be a breach of the contract or agreement under which the affordable housing is being developed or operated and shall subject the person or entity failing to make such payments to any or all of the remedies for breach set forth in the contract or agreement.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.14 Right of Action

Any person entitled to be paid prevailing wages under this chapter, shall have a right of action against any party to a contract or agreement pursuant to NAHASDA for failure to pay such wages. Upon a finding such person has not been paid the prevailing wages to which he or she is entitled under this chapter, the court shall enter judgment for the same, and in addition shall enter an award of attorney fees on behalf of such person

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.15 Tribal Prevailing Wages Administrator to Determine Amount

The Tribal Prevailing Wages Administrator shall determine the amount of prevailing wages required to be paid under this chapter in accordance with the provisions of this chapter and such reasonable procedures and guidelines as may be determined by the Administrator.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.16 Factual Basis for Prevailing Wage Determinations

The prevailing wage determinations required under this chapter shall be based on (1) reliable data from third parties, (2) wage surveys completed by or under the direction of the Tribal Prevailing Wage Administrator, or (3) such other information as the Tribal Prevailing Wage Administrator shall deem to be reliable for the purposes of this chapter.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.17 Effective Date for Prevailing Wage Determinations

All prevailing wage determinations issued pursuant to this chapter shall be effective upon publication, unless otherwise stated in the issuance of the determination, and shall remain effective until withdrawn or superceded by subsequent determination.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.18 Supplemental Determinations

If a classification has not been included in a determination under this chapter, a supplemental determination may be issued at any time.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.19 Exceptions

The provisions of this chapter shall not apply to any individual who receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and who is not otherwise employed at any time in the construction work.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.20 Preemption

This chapter preempts in its entirety the prevailing wage provisions, including Davis-Bacon provisions, of the Native America Housing and Self-Determination Act, 25 U.S.C. 4114(b)(1), and all regulations issued pursuant thereto or relied on and supplemental thereto.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.21 Tribal Court

The Port Gamble S'Klallam Tribal Court shall have jurisdiction over any suit relating to this chapter; provided, this shall not be deemed to be a waiver of the sovereign immunity of the Tribe or any of its agencies or entities.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.22 Sovereign Immunity

Nothing in this chapter, nor any regulation promulgated pursuant thereto, shall be deemed to be a waiver of the sovereign immunity of the Tribe or any of its agencies or entities.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.23 Savings Clause, Severability

If any paragraph, subparagraph, clause or sentence or phrase of this chapter or regulations adopted pursuant to this chapter shall be declared invalid, or declared invalid as applied to any person or circumstance, such decision shall not affect the validity of the remaining portions of the chapter, and those remaining portions shall remain in full force and effect and to this end, provisions of this chapter and any regulations adopted hereunder are declared severable.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

10.04.24 Effective Date

This chapter shall be effective retroactive to December 27, 2000, but shall not impair any contract or agreement then existing or entered into prior to the enactment of this chapter or any contract or agreement that may hereafter be entered into pursuant to invitations for bids that are outstanding on the date of enactment.

[HIST: Source - Resolution No. 04 A 049, passed 4/27/04, adopted this section on an emergency basis. Resolution No. 04 A 054, passed 5/11/04, adopted this section following a public hearing.]

Chapter 10.05 Port Gamble S'Klallam Housing Authority

10.05.01 Establishment of the Housing Authority.

- a) Pursuant to the authority vested in the Port Gamble S'Klallam Tribe by its Constitution and its authority to provide for the health, safety, morals, and welfare of the Tribe, the Tribal Council of the Port Gamble S'Klallam Tribe hereby amends and codifies the ordinance which established the public body chartered under the name of the Port Gamble Housing Authority and hereinafter to be formally denominated as the Port Gamble S'Klallam Housing Authority (hereinafter referred to as the Authority).
- b) In any suit, action or proceeding involving the validity or enforcement of or relating to any of its contracts, the Authority shall be conclusively deemed to have become established and authorized to transact business, exercise its powers and carry out its duties upon proof of the adoption of this chapter, as amended. A copy of this chapter, as amended, duly certified by the Secretary of the Council, shall be admissible in evidence in any suit, action or proceeding.

[HIST: Source – Port Gamble S'Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.02 Sovereign Immunity

Nothing in this chapter constitutes a waiver of the immunity from suit possessed by the Tribe, and the Tribe expressly does not consent to be sued or to have any of its property subject to claims, liens, execution, attachment or judicial proceedings of any sort, which might arise from the debts, obligations or any activities of the Port Gamble S'Klallam Housing Authority.

[HIST: Source – Port Gamble S'Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.03 Declaration of Need

It is hereby declared:

- a) That there exists on the Port Gamble S'Klallam Reservation unsanitary, unsafe, and overcrowded housing; that there is a shortage of decent, safe and sanitary housing on and near the Port Gamble S'Klallam Reservation; and that there is a shortage of affordable housing in other areas where members of the Tribe reside; and that such shortages force persons to occupy unsanitary, unsafe and overcrowded housing and to leave the Reservation;
- b) That these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and

welfare of the residents of the Reservation and to members of the Tribe residing near the Reservation; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention, prosecution and punishment, public health and safety protection, fire and accident prevention, and other public services and facilities;

- c) That the shortage of decent, safe and sanitary housing cannot be relieved through the operation of private enterprise alone;
- d) That the providing of decent, safe and sanitary housing and other housing assistance and related services are public uses and purposes for which money may be spent and private property acquired and are governmental functions of Tribal concern;
- e) That residential construction activity and a supply of acceptable housing are important factors to general economic activity, and that the undertakings authorized by this chapter to aid the production of better housing and more desirable neighborhoods and community development at lower costs will make possible a more stable and larger volume of residential construction and housing supply which will assist materially in achieving full employment.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.04 Purposes

The Authority shall be organized and operated for the purposes of:

- a) Provide housing, housing assistance and related services to the fullest extent possible without limitation except as set forth in this chapter and other applicable law, and irrespective of the source of financial assistance or funding for such activities;
- b) Remediating on and near the Reservation unsafe and unsanitary housing conditions that are injurious to the public health, safety, welfare and morals;
- c) Alleviating the acute shortage of decent, safe and sanitary housing;
- d) Providing housing, housing assistance and related services on and near the Port Gamble S’Klallam Reservation and in other areas where members of the Tribe reside; and
- e) Providing employment and other economic development opportunities on and near the Reservation through the construction, reconstruction, improvement, extension, alteration or repair and operation of housing and related infrastructures and facilities and

through the provision of housing assistance, housing opportunities and related services.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.05 Definitions

The following terms, wherever used or referred to in this chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

- a) “Board” means the Board of Commissioners of the Authority.
- b) “Board member” or “Commissioner” means any member of the Board of Commissioners.
- c) “Council” means the Port Gamble S’Klallam Tribal Council.
- d) “Federal government” includes the United States of America and any department, agency or instrumentality of the United States of America, corporate or otherwise.
- e) “Homebuyer” means a person(s) who has executed a lease-purchase agreement, a lease with an option to purchase or a contract to purchase a home with the Authority and who has not yet achieved homeownership and includes a person(s) who has executed a turnkey or Mutual Help and Occupancy Agreement with the Authority or a person(s) who has executed a leasehold mortgage or other mortgage or security instrument for the purchase or improvement of a home.
- f) “Housing project” or “project” means any work or undertaking to provide or assist in providing decent, safe and sanitary housing. Such work or undertaking may include a building or buildings, land, leaseholds, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, for streets, sewers, water service, utilities, parks, site preparation or landscaping, and for administrative, community, health, recreational, welfare, or other purposes. The term “housing project” or “project” also may be applied to the planning of the building or buildings and improvements, the acquisition of property or any interest therein, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration or repair of the improvements or other property and all other work in connection therewith, and the term shall include all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.

- g) "Obligations" means any notes, bonds, interim certificates, debentures, or other forms of obligations issued by the Authority pursuant to this chapter.
- h) "Obligee" includes any holder of an obligation, agent or trustee for any holder of an obligation, or lessor demising to the Authority property used in connection with a project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal government when it is a party to any contract with the Authority in respect to a housing project.

[HIST: Source – Port Gamble S'Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.06 Board of Commissioners

- a) The affairs of the Authority shall be managed by a Board of Commissioners composed of six (6) persons. One member shall serve as the Chair and shall only vote in case of a tie and while serving as a hearing panel member.
- b) The Board members shall be appointed, and may be reappointed, by the Council following a recommendation by the Board of Commissioners. A certificate of the Secretary of the Council as to the appointment or reappointment of any Commissioner shall be conclusive evidence of the due and proper appointment of the Commissioner.
- c) No person shall be barred from serving on the Board because he or she is a tenant or homebuyer in a housing project of the Authority; and such Commissioner shall be entitled to fully participate in all meetings concerning matters that affect all of the tenants or homebuyers, even though such matters affect him or her as well. However, no such Commissioner shall be entitled or permitted to participate in or be present at any meeting (except in his or her capacity as a tenant or homebuyer), or to be counted or treated as a member of the Board, concerning any matter involving his or her individual rights, obligations or status as a tenant or homebuyer.
- d) The term of office shall be three (3) years and staggered.
- e) If a vacancy occurs on the Board in a position for which there is an unexpired term remaining, the Council shall appoint a Commissioner to complete the unexpired term following a recommendation from the Board of Commissioners.
- f) Any Commissioner may resign at any time by delivering a written resignation to the Secretary of the Council. Such resignation shall be effective on the date stated in the resignation, or effective immediately, if no date is given.

- g) The Council shall name one of the Commissioners as Chair of the Board. The Board shall elect from among its members a Vice-Chair a Secretary, and a Treasurer; and any member may hold two of these positions. In the absence of the Chair, the Vice-Chair shall preside; and in the absence of both the Chair and Vice-Chair, the Secretary shall preside.
- h) A member of the Board may be removed by the Council for (1) serious inefficiency, (2) neglect of duty, (3) misconduct in office or (4) missing three or more regularly scheduled meetings in a calendar year, but only after a hearing before the Council and only after the member has been given a written notice of the specific charges against him or her at least 10 days prior to the hearing. At any such hearing, the member shall have the opportunity to be heard in person or by counsel and to present witnesses in his or her behalf. The Tribal Council may allow the member to remain on the Board when the proposed removal was based on too many absences, if the member had a serious health care issue that caused the absences. In the event of removal of any Board member, a record of proceedings, together with the charges and findings thereon, shall be filed with the Secretary of the Council.
- i) The Commissioners shall receive reasonable compensation for their services and shall be entitled to compensation for expenses, including travel expenses, incurred in the discharge of their duties. The compensation shall be commensurate with time the board members invest.
- j) Three members of the Board shall constitute a quorum for the transaction of business, notwithstanding the existence of any vacancies.
- k) The Secretary shall keep complete and accurate records of all meetings and actions taken by the Board.
- l) The Treasurer shall keep full and accurate financial records, make periodic reports to the Board, and submit a complete annual report, in written form, to the Council as required by section 10.05.22 of this chapter. The Treasurer shall be bonded in such amount as is prescribed by the Council or by any agreement to which the Authority is a party.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section. Resolution No. 07 A 027 passed 3/30/07 changed the Board members’ terms from three to four years, provided for staggered terms, provided for removal for missing meetings, and requires a recommendation by the Board before the Council appoints a member or fills a vacancy.]

10.05.07 Voting Authority

The Board shall have authority to exercise, by majority vote of those present and voting, any powers delegated to the Authority by this chapter, except as provided in section 10.05.19 for the adoption of resolutions for the issuance or sale of obligations.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.08 Meetings

Meetings of the Board shall be held at regular intervals as provided in the bylaws or by resolution of the Board. Emergency meetings may be held upon 24 hours’ actual notice and business transacted, provided that not less than a majority of the full Board concurs in the proposed action.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.09 Intent

It is the intent of this chapter to empower the Authority to provide housing, housing assistance and related services to the full extent possible without limitation except as set forth in this chapter and other applicable law, and irrespective of the source of financial assistance or funding for such activities.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.10 Area of Operation

The area of operation of the Authority shall include all lands within the exterior boundaries of the Port Gamble S’Klallam Reservation, all other lands within the jurisdiction of the Port Gamble S’Klallam Tribe, and any areas in which members of the Port Gamble S’Klallam Tribe may reside.

[HIST: Source –Resolution No. 05 A 065, passed 7/12/05, adopted and codified this section.]

10.05.11 Litigation and Sovereign Immunity

The Council hereby gives its consent, irrevocable except by amendment to this chapter, to allowing the Authority in its corporate name, to sue in courts of appropriate jurisdiction and to be sued in the Port Gamble S’Klallam Tribal Court upon any contract, claim or obligation arising out of its activities under this chapter when the Authority has agreed, by express written contract, to waive the immunity from suit it possesses as a delegate agency of the Port Gamble S’Klallam Tribe; provided that, the Port Gamble S’Klallam Tribe together with all its agencies and branches,

excepting the Authority, shall not be liable for the contracted debts or obligations of the Authority; provided further, nothing in this section is intended to be nor shall the same be construed to be a waiver of the sovereign immunity of the Authority as a delegate agency of Tribe; provided further, that any waiver by the Authority of the sovereign immunity which the Authority possesses as a delegate agency of the Tribe must be explicit and set forth in a written contract to which the Authority is a party and must comply with all federal and tribal requirements for the waiver of sovereign immunity.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.12 Other Powers

The Authority shall have the following powers which it may exercise consistent with the purposes for which it is established:

- a) To develop housing, including the acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of housing, which may include real property acquisition, site improvement, development of utilities and utility services and other infrastructure, conversion, demolition, financing, administration and planning, and other related activities.
- b) To provide assistance to existing housing including operating assistance and modernization.
- c) To provide housing-related services, such as housing counseling in connection with rental, homebuyer or homeownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self-sufficiency, education programs and other services related to assisting tenants, homebuyers and homeowners, contractors, and other entities.
- d) To provide housing management services, including but not limited to preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and management of housing projects.
- e) To assist the Port Gamble S’Klallam Tribe to provide safety, security, and law enforcement measures and activities appropriate to protect tenants, homebuyer and homeowners from crime.
- f) To conduct and engage in housing activities under model programs that are designed to carry out the purposes of the Native American Housing Assistance and Self-Determination Act of 1996.

- g) To provide other housing assistance and support services, including but not limited to voucher assistance, the establishment and operation of assisted living facilities and the provision of transient, emergency and other short-term housing.
- h) To enter into agreements, contracts and understandings with any governmental agency, federal, tribal, state or local (including the Council) or any agency or entity of the Tribe or the tribally designated housing entities of any other Indian tribe) or with any person, partnership, corporation, association or organization, whether profit or nonprofit; and to agree to any conditions attached to any such financial assistance.
- i) To the extent not preempted by legally valid tribal law, to agree to any legally valid conditions attached to federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, in the development or administration of projects, to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor, and comply with any legally valid conditions which the federal government may have attached its financial aid to the project.
- j) To lease property from the Tribe and others for such other periods as are authorized by law, and to hold and manage or to sublease or assign the same or to mortgage or give any other security interest in the same.
- k) To borrow or lend money, to issue temporary or long term evidence of indebtedness, and to repay the same. Obligations shall be issued and repaid in accordance with the provisions set forth in this chapter.
- l) To pledge the assets and receipts of the Authority as security for debts; and to acquire, sell, lease, exchange, transfer or assign personal property or interests therein.
- m) To purchase land or interests in land or take the same by gift; and to lease land or interests in land to the extent provided by law.
- n) To undertake and carry out studies and analyses of housing needs on or near the Reservation, to prepare housing needs plans, to execute the same, to operate projects and to provide for the construction, reconstruction, improvement, extension, alteration or repair of any project or any part thereof.

- o) With respect to any dwellings, accommodations, lands, buildings or facilities embraced within any project or otherwise (including but not limited to single family residences, multi-family dwellings, apartments and individual cooperative or condominium units, whether for single individuals or families); to lease or rent, sell, including sales subject to a leasehold mortgage or other security interest, enter into lease-purchase agreements or leases with option to purchase or contracts to purchase; to establish and revise rents or required monthly payments; to adopt policies and procedures concerning the occupancy, rental, care and management of housing units; and to adopt policies concerning the selection of tenants or homebuyers, including the establishment of priorities or homebuyers; and to adopt such further policies and procedures as the Board may deem necessary and desirable to effectuate the powers granted by this chapter.
- p) To finance, subsidize and otherwise assist purchase of a home by an eligible homebuyer through such financing mechanisms as lease-purchase agreements, leases with option to purchase, contracts to purchase and leasehold mortgages or other mortgages or security interests; through loans, including revolving loans, whether secured or unsecured; through direct assistance including down payment assistance, subsidies, write downs; and through other means including loan guarantees and loan insurance; and to assist an eligible homebuyer or homeowner with home repairs and improvements, modernization, rehabilitation and remodeling through such means.
- q) To terminate any lease or rental agreement, or any lease-purchase agreement, lease with option to purchase or contract for purchase of a home, when the tenant or homebuyer has violated the terms of such agreement, or failed to meet any of its obligations thereunder, or when such termination is otherwise authorized under the provisions of such agreement; and to bring an action for foreclosure of a leasehold mortgage or other mortgage or security interest when a homebuyer has failed to meet any of the homebuyer's obligations thereunder or when such termination is otherwise authorized under the provisions of the leasehold mortgage or other mortgage or security interest.
- r) To conduct hearings concerning grievances of residents of the Authority and applicants for housing, contractor disputes and such other matters as the Board deems responsible and appropriate, and to issue subpoenas and administer oaths in connection with the same.
- s) To bring an action for eviction against any tenant or homebuyer whose rental or lease agreement or lease-purchase agreement or lease with option to purchase or contract for purchase has been

terminated and against any homebuyer whose leasehold mortgage or other mortgage or security interest has been foreclosed.

- t) To administer and manage properties other than properties owned by or in which the Authority has an interest.
- u) To purchase insurance from any stock or mutual company, or to participate in any plan of self-insurance, including a nonprofit insurance entity in which the Authority or the Tribe may have an ownership interest, for any property or against any risk or hazards.
- v) To agree to indemnify any officer, employee or agent, acting as such, and to agree or obligate the Authority to advance or reimburse expenses of any officer, employee or agent of the Authority, acting as such, who has been made a party to any legal proceeding.
- w) To invest such funds as are not required for immediate disbursement in any form of investment or obligation that is consistent with the purposes of this chapter, including but not limited to equity investments, interest-bearing loans or advances, non-interest bearing loans or advances, interest subsidies, leveraging of private investments, and investment securities.
- x) To reinvest the proceeds of the housing activities of the Authority in additional and further housing activities.
- y) Subject to other applicable law, to set aside such cash reserves, if any, that the Board in its sole discretion may deem appropriate.
- z) To establish and maintain such bank accounts as may be necessary or convenient.
- aa) To accept gifts and charitable contributions on behalf of the Authority and to use the same for purposes consistent with this chapter.
- bb) To apply for grants and funding and to leverage the same with its own or other funds or funding.
- cc) To apply for stipends and fellowships on its own behalf and on behalf of tenants and homebuyers and on behalf of its officers and employees.
- dd) To employ an executive director, technical and maintenance personnel and such other officers and employees, permanent or temporary, as the Authority may require; and to delegate to such officers and employees such powers and/or duties as the Board shall deem proper; provided, that the Council, or its designee, shall have authority to designate the executive director of the Authority and to

evaluate and take disciplinary action including termination the employment of the executive director of the Authority.

- ee) To provide for such employee benefit programs as the Board in its sole discretion may deem appropriate.
- ff) To enter into contracts for professional services to be performed on behalf of the Authority, including but not limited to accounting, appraisal, architectural, engineering and legal services.
- gg) To adopt such bylaws as the Board deems necessary and appropriate.
- hh) To join or cooperate with any other public housing agency or agencies operating under the laws or ordinances of a state or another Tribe in the exercise, either jointly or otherwise, of any or all of the powers of the Authority and such other public housing agency or agencies for the purposes of financing (including but not limited to the issuance of notes or other obligations and giving security therefor), planning, undertaking, owning, constructing, operating or contracting with respect to a housing project or projects of the Authority or such other public housing agency or agencies. For such purpose, the Authority may, by resolution, prescribe and authorize any public housing agency or agencies, so joining or cooperating with the Authority, to act on the Authority's behalf with respect to any or all powers, as the Authority's agent or otherwise, in the name of the Authority or in the name of such agency or agencies.
- ii) To enter into local cooperation agreements with the governing body of any locality within which any housing to be assisted by the Authority is or will be situated for the provision of governmental services and other purposes.
- jj) To initiate and take any and all action that may be necessary or desirable to participate in the Low Income Housing Tax Credit program provided for in section 42 of the U.S. Internal Revenue Code, or the corresponding section of any future tax code.
- kk) To cooperate with and assist in the establishment of nonprofit organizations and local chapters of nonprofit organizations which are entitled to exemption from federal income tax under section 501(c)(3) of the U.S. Internal Revenue Code, or the corresponding section of any future tax code, and to make grants or contributions to such organizations limited to and including only those purposes included under section 501(c)(3) of the U.S. Internal Revenue Code, or the corresponding section of any future federal tax code, and as are consistent with and in furtherance of the purposes of this chapter.

- ll) To establish a separate fund(s) and to organize and operate such fund(s) exclusively for the purposes included under section 501(c)(3) of the U.S. Internal Revenue Code, or the corresponding section of any future federal tax code, and as are consistent with and in furtherance of the purposes of this chapter, and with respect to such fund(s) to receive gifts and charitable contributions.
- mm) To draft and propose legislation, tribal or otherwise, to participate in federal rule making and comment on proposed federal regulations, to participate in lobbying activities consistent with the purposes of this chapter, and to testify orally and in writing before any Congressional or other governmental committee.
- nn) To join the Authority with any other tribally designated housing entities and Indian tribes in one or more housing associations.
- oo) To take such further actions as are commonly engaged in by public bodies of this character as the Board may deem necessary and desirable to effectuate the purposes of the Authority.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.13 Purpose and Intent-Financing

One purpose and intent of this chapter is to authorize the Authority to do any and all things necessary or desirable in furtherance of the stated purposes of this chapter and to secure public or private financing or the financial aid or cooperation of the federal, tribal or state government in the undertaking, construction, maintenance or operation of any project by the Authority.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.14 Applicability

No law or other enactment of the Tribe with respect to the acquisition, operation, or disposition of Tribal property shall be applicable to the Authority in its purposes and development of housing operations pursuant to this chapter unless the Council shall specifically so state.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.15 Issuance of Obligations

The Authority may issue obligations from time to time in its discretion for any of its purposes and may also issue refunding obligations for the purpose of paying or retiring obligations previously issued by it. The

Authority may issue such types of obligations as it may determine, including obligations on which the principal and interest are payable:

- a) Exclusively from the income and revenues of the project financed with the proceeds of such obligations, or with such income and revenues together with a grant from the Federal government in aid of such project;
- b) Exclusively from the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of such obligations; or
- c) From its revenues generally. Any of such obligations may be additionally secured by a pledge of any revenues of any project, projects or other property of the Authority.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.16 Liability

Neither the Commissioners of the Authority nor any person executing the obligations shall be liable personally on the obligations by reason of issuance thereof.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.17 Debts

The notes and other obligations of the Authority shall not be a debt of the Tribe and the obligations shall so state on their face.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.18 Status of Obligations

Obligations of the Authority are declared to be issued for essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes imposed by the Tribe. The tax exemption provisions of this chapter shall be considered part of the security for the repayment of obligations and shall constitute, by virtue of this chapter and without necessity of being restated in the obligations, a contract between (a) the Authority and the Tribe, and (b) the holders of the obligations and each of them, including all transferees of the obligations from time to time.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.19 Issuance and Sale of Obligations

Obligations shall be issued and sold in the following manner:

- a) Obligations of the Authority shall be authorized by a resolution adopted by the vote of an absolute majority (at least three affirmative votes) of the full Board and may be issued in one or more series.
- b) The obligations shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payments, at such places and be subject to such terms of redemption, with or without premium, as such resolution may provide.
- c) The obligations may be sold at public or private sale at not less than par.
- d) In case any of the Commissioners of the Authority whose signatures appear on any obligations cease to be Commissioners before the delivery of such obligations the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the Commissioner had remained in office until delivery.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.20 Negotiability of Obligations

Obligations of the Authority shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any obligation of the Authority or the security therefor, any such obligation reciting in substance that it has been issued by the Authority to aid in financing a project pursuant to this chapter shall be conclusively deemed to have been issued for such purpose, and the project for which such obligation was issued shall be conclusively deemed to have been planned, located and carried out in accordance with the purposes and provisions of this chapter.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.21 Power of Authority Over Obligations

In connection with the issuance of obligations or incurring of obligations under leases and to secure the payment of such bonds or obligations, the Authority, subject to the limitations in this chapter, may:

- a) Pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.
- b) Provide for the powers and duties of obligees and limit their liabilities; and provide the terms and conditions on which such obligees may enforce any covenant or rights securing or relating to the obligations.
- c) Covenant against pledging all or any part of its rents, fees and revenues or against mortgaging any or all of its real or personal property to which its title or right then exists or may thereafter come into existence or permitting or suffering any lien on such revenues or property.
- d) Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any project or any part thereof.
- e) Covenant as to what other or additional debts or obligations may be incurred by it.
- f) Covenant as to the obligations to be issued and as to the issuance of such obligations in escrow or otherwise, and as to the use and disposition of the proceeds thereof.
- g) Provide for the replacement of lost, destroyed or mutilated obligations.
- h) Covenant against extending the time for the payment of its obligations or interest thereon.
- i) Redeem the obligations and covenant for their redemption and provide the terms and conditions thereof.
- j) Covenant concerning the rents and fees to be charged in the operation of a project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof.
- k) Create or authorize the creation of special funds for monies held for construction or operating costs, debt service, reserves or other purposes, and covenant as to the use and disposition of the monies held in such funds.
- l) Prescribe the procedures, if any, by which the terms of any contract with holders of obligations may be amended or abrogated, the proportion of outstanding obligations the holders of which must consent thereto, and the manner in which such consent may be given.

- m) Covenant as to the use, maintenance and replacement of its real or personal property, the insurance to be carried thereon and the use and disposition of insurance monies.
- n) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation.
- o) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its obligations become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.
- p) Vest in any obligees or any proportion of them the right to enforce the payment of the obligations or any covenants securing or relating to the obligations.
- q) Exercise all or any part or combination of the powers granted in this section.
- r) Make covenants other than, and in addition to, the covenants expressly authorized in this section, of like or different character subject to the limitations contained in this section and not inconsistent with this chapter.
- s) Make any covenants and do any acts and things necessary or convenient or desirable in order to secure its obligations, or, in absolute discretion of the Authority, tending to make the obligations more marketable even when said covenants, acts or things are not enumerated in this chapter.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.22 Annual Reports

The Authority or designated person shall submit a detailed annual report, signed by the Chair of the Board, to the Council showing:

- a) A summary of the year’s activities,
- b) The financial condition of the Authority,
- c) The condition of the properties,
- d) The number of units and vacancies,
- e) Any significant problems and accomplishments,
- f) Plans for the future, and

- g) Such other information as the Authority or the Council shall deem pertinent.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section. Resolution No. 07 A 027 passed 3/30/07, changed the word Chairman to Chair.]

10.05.23 Interests - Acquisitions and Disclosures Conflict of Interest

No person who participates in the decision-making process or who gains inside information with regard to NAHASDA assisted activities may obtain a personal or financial interest or benefit from such activities, except for the use of NAHASDA funds to pay salaries or other related administrative costs. Such persons include anyone with an interest in any contract, subcontract or agreement or proceeds there under, either for themselves or others with whom they have business or immediate family ties. Immediate family ties are determined by the Indian tribe or the TDHE in its operating policies.

The conflict of interest provision does not apply in instances where a person who might otherwise be included under the conflict provision is low-income and is selected for assistance in accordance with the recipient’s written policies for eligibility, admission and occupancy of families for housing assistance with IHBG funds, provided that there is no conflict of interest under applicable tribal or state law. The recipient must make a public disclosure of the nature of assistance to be provided and the specific basis for the selection of the person. The recipient shall provide the appropriate area ONAP with a copy of the disclosure before the assistance is provided to the person.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.24 Bond Coverage

The Authority shall obtain or provide for the obtaining of adequate fidelity bond coverage of its officers, agents or employees handling cash or authorized to sign checks or certify vouchers.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.25 Property Taxes and Assessments - Exempt

The property of the Authority is declared to be public property used for essential public and governmental purposes and such property and the Authority are exempt from all taxes and special assessments of the Tribe.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.26 Levy and Sales - Exemption of Properties

All property including funds acquired or held by the Authority pursuant to this chapter shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against the Authority be a charge or lien upon such property. However, the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its rents, fees or revenues.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.27 Cooperation in Connection with Projects

For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of projects, the Tribe hereby agrees that:

- a) It will furnish or cause to be furnished to the Authority and the occupants of projects all services and facilities of the same character and to the same extent as the Tribe furnishes from time to time without cost or charge to other dwellings and inhabitants on the Reservation.
- b) Insofar as it may lawfully do so, it will grant such deviations from any present or future building or housing codes of the Tribe as are reasonable and necessary to promote economy and efficiency in the development and administration of any project, and at the same time safeguard health and safety, and make such changes in any zoning of the site and surrounding territory of any project as are reasonable and necessary for the development and protection of such project and the surrounding territory.
- c) It will do any and all things, within its lawful powers, necessary or convenient, to aid and cooperate in the planning, undertaking, construction or operation of projects.
- d) The Tribal government hereby declares that the powers of the Tribal Government, including the powers of the Port Gamble S’Klallam Tribal Court and the Port Gamble S’Klallam Tribal Police under the direction of the Tribal Court, shall be vigorously utilized to enforce eviction of a tenant or homebuyer for nonpayment or other contract or leasehold mortgage violations.
- e) The Tribal Courts shall have jurisdiction to hear and determine an action for eviction of a tenant or homebuyer (see Chapter 10.02 of this Code).

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.28 Tribal Policies and Procedures

The Authority shall be subject to such policies and procedures of the Tribe, including but not limited to: personnel policies, tribal reporting requirements and selection of the annual audit, as the Council may, by motion, from time to time require.

[HIST: Source –Resolution No. 05 A 065, passed 7/12/05.]

10.05.29 Elimination of Unsafe and Unsanitary Housing

The Tribe declares its intention to use its lawful powers, to the extent feasible, to eliminate unsafe or unsanitary dwelling units on the Reservation, as additional dwellings are provided by projects of the Authority.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]

10.05.30 Savings Clause, Severability, Pending Actions

If any paragraph, subparagraph, clause or sentence of phrase of this chapter or regulations adopted pursuant to this chapter shall be declared invalid, or declared invalid as applied to any person or circumstance, such decision shall not affect the validity of the remaining portions of the chapter, and those remaining portions shall remain in full force and effect and to this end, provisions of this chapter and any regulations adopted hereunder are declared severable. Any action pending at the date of the amendment of this chapter shall not be affected by amendment of this chapter, and the action shall proceed pursuant to prior provisions of the Law and Order Code of the Port Gamble S’Klallam Tribe or regulations enacted pursuant thereto.

[HIST: Source – Port Gamble S’Klallam Housing Ordinance of 1977. Resolution No. 05 A 065, passed 7/12/05, amended and codified this section.]