

## **Title 13**

### **Tribal Court**

#### **Chapters:**

- 13.01 Establishment of Court**
- 13.02 Definitions**
- 13.03 Rules of Court**
- 13.04 Jurisdiction**
- 13.05 Appointment and Removal of Judges**
- 13.06 Clerk and Records**
- 13.07 Spokespersons**
- 13.08 Tribal Court Bar, Admission**
- 13.09 Contempt of Court**
- 13.10 Informal Dispute Resolution**
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## **Chapter 13.01**

### **Establishment of Court**

#### **Sections:**

#### **13.01.01 Establishment of Court**

#### **13.01.02 Northwest Intertribal Court System**

#### **Section 13.01.01 Establishment of Court**

There is hereby established for the Tribe, pursuant to Article VII (7), Section 1 (i) and Article VIII (8) of the Tribal Constitution, a Court to be known as the Jamestown S'Klallam Tribal Court.

#### **Section 13.01.02 Northwest Intertribal Court System**

The Northwest Intertribal Court System (NICS) is hereby appointed to serve as the Jamestown S' Klallam Tribal Court. The Executive Director is authorized to contract with the NICS for said services and to pay the amounts deemed appropriate and reasonable by him/her for those services.

## **Chapter 13.02**

### **Definitions**

#### **Sections:**

#### **13.02.01 Definitions**

#### **Section 13.02.01 Definitions**

The following definitions apply throughout this Title unless otherwise specified, or the context clearly indicates otherwise:

- A. "Police" means a qualified Tribal Law Enforcement Officer, Fisheries Enforcement Officer, a police officer of the United States or Bureau of Indian Affairs or a police officer of the State of Washington or a county in Washington State;
- B. "Signature" means the written signature, official seal or the thumb print or mark of any individual;
- C. "Youth" means a person under the age of eighteen (18).

## **Chapter 13.03**

### **Rules of Court**

#### **Sections:**

#### **13.03.01 Civil Court Rules**

##### **Section 13.03.01 Civil Court Rules**

The Tribal Council may adopt and promulgate rules of civil procedure for the Court.

## **Chapter 13.04**

### **Jurisdiction**

#### **Sections:**

#### **13.04.01 Tribal Court Civil Jurisdiction**

#### **13.04.02 Means to Carry Jurisdiction into Effect**

#### **13.04.03 Declaratory and Injunctive Relief**

#### **13.04.04 Implied Consent**

##### **Section 13.04.01 Tribal Court Civil Jurisdiction**

The Tribal Council has conferred upon the Tribal Court "all judicial authority of the Tribe." The Tribal Council understands this to mean that the Tribal Court may exercise civil jurisdiction to the full extent permitted under the laws of the United States of America.

Without limiting the generality of that grant of authority, the Tribal Council hereby declares that any person, whether or not a member of the Jamestown S' Klallam Tribe or a resident of the Jamestown S' Klallam Reservation, who in person or through an agent does any of the acts in this Code enumerated, thereby submits said person, and, if an individual, their personal representative, to the jurisdiction of the Tribal Court as to any civil cause of action arising from the doing of any of the following acts:

- A. The transaction of any business within the Jamestown S' Klallam Reservation;
- B. The commission of a tortious act within the Jamestown S' Klallam Reservation;
- C. The ownership, use, or possession of any property whether real or personal situated within the Jamestown S' Klallam Reservation;
- D. Contracting to insure any person, property, or risk located within the Jamestown S' Klallam Reservation at the time of contracting; and
- E. Performing duties as an employee of the Tribe, a Tribal enterprise, or other organization or commission formed by the Tribe within the Jamestown S' Klallam Reservation;
- F. The service of process upon any person who is subject to the jurisdiction of the courts of this Tribe may be made personally in the same manner and with the same force and effect as though personally served within the Reservation.

The “Jamestown S’ Klallam Reservation” shall mean and include all Indian Country within the jurisdiction of the Tribe and all other persons, property and places within the Tribe’ s jurisdiction at all on and off-reservation locations to the fullest extent allowed under Article I (i) of the Tribe’ s Constitution.

**Section 13.04.02 Means to Carry Jurisdiction into Effect**

When jurisdiction is vested in the Tribal Court, all means necessary to carry it into effect are also given, and in the exercise of this jurisdiction, if the course of proceeding is not specifically pointed out by this Title, and a suitable process may be adopted by the Court which is in harmony with the spirit of Tribal Law.

**Section 13.04.03 Declaratory and Injunctive Relief**

The Tribal Court may issue all writs necessary and appropriate in aid of its jurisdiction and agreeable to the usages and principles of law. The Court shall have the power to issue such declaratory and injunctive relief as it may deem appropriate in cases brought before it. The Court may issue declarations of the rights and legal relationships of any interested parties before the Court seeking such declaration. Further necessary and proper relief, based upon a declaratory judgment, may also be issued.

**Section 13.04.04 Implied Consent**

Entrance by any person onto the Jamestown S’ Klallam Reservation shall constitute acceptance of the jurisdiction of the Tribal Court and a consent to such jurisdiction over their person concerning any legal action under the Laws of the Jamestown S’ Klallam Tribe and shall be deemed consent to service of summons or process by registered mail with return receipt requested at their last known address.

**Chapter 13.05**

**Appointment and Removal of Judges**

**Sections:**

**13.05.01 Appointment of Judges**

**13.05.02 Judicial Officer**

**13.05.03 Disqualification of Judges**

**Section 13.05.01 Appointment of Judges**

The Northwest Intertribal Court System (NICS) judges are hereby appointed to be the judges for the Tribe. The Chief Judge for the NICS is hereby appointed to be the Chief Judge of the Tribe. They, upon approval of the Northwest Intertribal Court System, may appoint such Associate Judges as deemed advisable upon approval of the Tribal Council by Resolution.

**Section 13.05.02 Judicial Officer**

The Council may appoint a judicial officer to preside over arraignments, sign search warrants, swear in police officers, act as a liaison between the NICS and Tribal members and perform other duties as requested by the Tribal Council. The judicial officer shall serve for such term and for such compensation as shall be determined by the Tribal Council. To be eligible to serve as a judge of the Tribal Court, a person must:

- (1) be at least 25 years of age;
- (2) never have been convicted of a felony, or never have been convicted, within the past ten years preceding his/her service, of a misdemeanor involving moral turpitude, corruption or dishonesty;

- (3) agree to be subject to a background investigation which shall be conducted by the Tribal Administrative Department;
- (4) live within 200 miles of the Reservation;
- (5) have successfully completed a Tribal Court orientation session conducted by a judge of the Tribal Court, the Northwest Indian Court System, or an attorney knowledgeable in Indian law and familiar with practice before the Tribal Court, and
- (6) have passed an examination, which shall be created, administered and evaluated by a qualified professional consultant and given in conjunction with the Tribal Court orientation session described herein; demonstrating:
  - (a) at least a minimal working knowledge of the operation and procedures of the Tribal Court and the sources of law applied by the Tribal Court,
  - (b) basic ability to communicate well in writing,
  - (c) a working knowledge of the Jamestown S' Klallam Tribal Court Code, and
  - (d) a familiarity with federal Indian law.

**Section 13.05.03            Disqualification of Judges**

- A.        A defendant, or other party, to any legal proceeding may change the assignment of their case from one judge to another upon filing an affidavit of prejudice with the court stating that the judge assigned to the case is prejudiced against their case;
- B.        The affidavit shall be in writing and must be filed with the Court before any trial action has been taken by the initial judge;
- C.        The second judge shall pass on the adequacy of any further affidavits of prejudice and enter the appropriate order, either hearing the case or reassigning it to another judge. Any further affidavits of prejudice must state the reason(s) the defendant, or other party, has for believing the second judge is prejudiced against their case;
- D.        An order denying any reassignment shall be deemed a final order and may be appealed from immediately. All further actions in the case will be stayed pending the outcome of the appeal.

## **Chapter 13.06**

### **Clerk and Records**

#### **Sections:**

**13.06.01 Clerk of Court**

**13.06.02 Court Records**

**13.06.03 Copies of Laws, Titles and Code**

#### **Section 13.06.01 Clerk of Court**

The Tribal Council shall appoint a clerk of the Court. The clerk's duties shall include giving assistance to the Court, Tribal police and fisheries officers and Tribal members in drafting complaints, subpoenas, warrants, commitments, and other documents incidental to the lawful function of the court. The clerk shall attend all proceedings of the Court and keep a taped record of the proceedings. The clerk shall perform other duties as designated by the Chief Judge, Executive Director, and judicial officer if applicable. The clerk shall be covered by the blanket bond provided for all Tribal employees before commencing their duties.

#### **Section 13.06.02 Court Records**

- A. The Tribal Court shall keep a record of all proceedings, including relevant documents, reflecting the title of the case, names of parties, substance of the complaints, names and addresses of all witnesses, date of hearing or trial, presiding judge, findings of the Court and jury, judgment, written opinion and other facts important to the case;
- B. The records shall be kept locked in the Tribal Court files for the Court's information and for inspection by duly qualified officials. All other requests for information from Tribal Court files must not infringe on the personal privacy of any person or unnecessarily disrupt the work of the Tribal Court, or its staff or officers.

#### **Section 13.06.03 Copies of Laws, Titles and Code**

The Tribal Court shall be provided with copies of this Code and any regulations which are applicable to the conduct of the business of the court. Copies of such documents shall be available for public inspection during regular business hours at the Tribal Administration Center.

## Chapter 13.07

### Spokespersons

#### Sections:

#### 13.07.01 Spokespersons Appearing in Tribal Court

#### Section 13.07.01 Spokespersons Appearing in Tribal Court

- A. Any person appearing in Tribal Court shall have the right to a spokesperson at their own expense, to assist in presenting the case, provided that such spokesperson shall first have to be admitted to the Tribal Court Bar. A spokesperson need not be an attorney;
- B. The Court may appoint a spokesperson to assist any person if, in the discretion of the Court, it appears necessary to protect such a person's rights under Jamestown S' Klallam Constitution or other law.

## Chapter 13.08

### Tribal Court Bar, Admission

#### Sections:

#### 13.08.01 Tribal Court Bar, Admission

#### 13.08.02 Tribal Court Bar, Denial of Admission

#### 13.08.03 Spokesperson's Oath

#### 13.08.04 Tribal Court Roster

#### 13.08.05 Tribal Court Bar Admission Fee

#### 13.08.06 Tribal Court Bar, Disbarment

#### 13.08.07 Appeal

#### Section 13.08.01 Tribal Court Bar, Admission

To be admitted to the Tribal Court Bar, a person must:

- A. Be of good moral character;
- B. Be approved by the Tribal Court or judicial officer;
- C. Sign and take a Spokesperson's Oath; and
- D. Pay the Tribal Court Bar admission fee of Fifteen Dollars (\$15).

#### Section 13.08.02 Tribal Court Bar, Denial of Admission

A person may be denied admission to the Tribal Court Bar if:

- A. The person has ever been convicted of any felony or any other crime which involves, as a necessary element, interference with the administration of justice, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation or theft, or an attempt, or a conspiracy or solicitation of another to commit one of the above crimes; or

- B. The person has been denied admission or disbarred on a prior occasion, whether or not the person appealed the denial or appeared at a disbarment hearing; or
- C. The person has been found to have violated, or has been accused of violating, the Spokesperson's Oath.

**Section 13.08.03 Spokesperson's Oath**

The oath which all persons desiring to appear as spokespersons in the Tribal Court shall take is as follows:

“Spokesperson's Oath”

I, \_\_\_\_\_, do solemnly swear:

- A. I have read the Jamestown S' Klallam Tribal Code and am familiar with its contents;
- B. I will support the constitution of the Jamestown S' Klallam Indian Community in all respects;
- C. I will abide by the rules established by the Jamestown S' Klallam Tribal Council and the Tribal Court;
- D. I will at all times maintain the respect due the Tribal Court and its officers;
- E. I will not counsel or speak for any suit or proceeding which shall appear to me to be unjust, or any defense except such as I believe to be honestly debatable under Jamestown S' Klallam law, unless it is in defense of a person charged with an offense, and is necessary to provide effective assistance of counsel;
- F. I will employ such means only as are consistent with truth and honor and will never seek to mislead a judge or jury by any false statements or by using any fraudulent means;
- G. I will abstain from all offensive conduct in the Tribal Court.

\_\_\_\_\_  
Spokesperson Signature

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Judge/Court Representative

**Section 13.08.04 Tribal Court Roster**

The Clerk of the Court will maintain a roster of all spokespersons admitted to practice before the Tribal Court, which is available for public inspection. The Clerk will also keep on file the signed oaths of each such person.

**Section 13.08.05 Tribal Court Bar Admission Fee**

Every person wishing to be a spokesperson in the Tribal Court will pay an admission fee of Fifteen Dollars (\$15.00). Such fee is to be used for the purpose of maintaining a Tribal Court law library and to provide the spokesperson with revisions in the Tribal Code. A judge may waive the Tribal Court Bar fee upon good cause shown.



### **Section 13.08.06 Tribal Court Bar, Disbarment**

Any spokesperson violating the Spokesperson's Oath shall be subject to disbarment. The Tribal Court judge shall prepare in writing a complaint against such spokesperson including reasons for disbarment. Within ten (10) days of receipt of such complaint, the Tribal Council shall hold a hearing at which time the spokesperson involved may present witnesses and a defense of their action. The decision of the Tribal Council shall be final.

### **Section 13.08.07 Appeal**

Any person denied admission to the Tribal Court Bar may appeal to a panel designated by the Tribal Council. Such panel shall be composed of three (3) members of the Tribal Council. A person shall have the right to a hearing before such panel within the (10) days of their denial and shall have the right to present witnesses and present a defense. The decision of a majority of the panel shall be final.

## **Chapter 13.09**

### **Contempt of Court**

#### **Sections:**

- 13.09.01 Contempt of Court, Civil**
- 13.09.02 Contempt of Court, Remedial Sanction, Civil Penalty**
- 13.09.03 Contempt of Court, Criminal**
- 13.09.04 Contempt of Court, Criminal Penalties**
- 13.09.05 Contempt of Court, Notice to Contemnor**
- 13.09.06 Contempt of Court Appeal**
- 13.09.07 Appeal of Contempt, No Stay of Proceedings**

#### **Section 13.09.01 Contempt of Court, Civil**

The Jamestown S'Klallam Tribal Court may charge with civil contempt any person who neglects their duty or is guilty of other misconduct which is harmful to the rights of a party to an action. The following cases are illustrative of civil contempt but shall not limit the scope of this section:

- A. Willful neglect or violation of a duty or disobedience to any lawful order or process of the Tribal Court by an attorney, spokesperson, clerk or other person duly authorized to perform a judicial or ministerial service;
- B. Any disobedience to any lawful order or judgment or process of the Tribal Court by any person;
- C. Any deceit or abuse of the process or proceedings of the Tribal Court by a party to an action or proceeding;
- D. Failure to obey a subpoena, or to attend, or to be sworn, or to answer as a witness;
- E. Failure to appear as a juror in compliance with the notice of jury duty.

#### **Section 13.09.02 Contempt of Court, Remedial Sanction, Civil Penalty**

The court may sentence any person guilty of a civil contempt as follows:

- A. If actual loss or injury has been suffered by a party by the misconduct of the guilty person, the Court shall order them to pay a sum sufficient to compensate such party; or

- B. If the misconduct was a failure to perform an act or duty which is yet in the power of the person to perform, the Court may order imprisonment until they have performed it, but only for as long as the imprisonment serves a coercive purpose, and until they have paid any fine imposed by the Court.

### **Section 13.09.03 Contempt of Court, Criminal**

The Tribal Court may charge with criminal contempt any person guilty of:

- A. Disorderly, contemptuous or insolent behavior, any breach of peace, noise or other disturbance which directly tends to interrupt the proceedings of the Court or which impairs the respect due to its authority;
- B. Committing an assault upon any person in the courtroom;
- C. Willful disobedience of any process or order lawfully issued or made by the Court;
- D. Resistance willfully offered to the lawful order or process of the Court;
- E. The unlawful refusal of any person to be sworn or affirmed, including refusal to answer any material questions except where refusal is based on valid legal grounds;
- F. The publication of a false or grossly inaccurate report of the proceedings of the Court;
- G. Any person who shall request a jury trial and fail to appear on the scheduled trial date;
- H. Any fraudulent or willful interference with a witness to an action or proceeding; or
- I. Improperly conversing with a party or others on the merits of an action by a juror.

### **Section 13.09.04 Contempt of Court, Criminal Penalties**

The Court may sentence a person guilty of criminal contempt of court to imprisonment for a period not to exceed one (1) year or pay a fine not to exceed Five Thousand Dollars (\$5,000.00), or both, with costs, for each separate contempt of court.

### **Section 13.09.05 Contempt of Court, Notice to Contemnor**

In any contempt proceeding whether civil or criminal, the alleged contemnor shall be entitled to reasonable notice and time to prepare a defense, unless a criminal contempt is committed within the presence of the Judge, in which case it may be punished without delay.

### **Section 13.09.06 Contempt of Court Appeal**

An appeal may be taken to the Jamestown S'Klallam Court of Appeals from any final order finding a person guilty of a criminal or civil contempt.

### **Section 13.09.07 Appeal of Contempt, No Stay of Proceedings**

A party in a proceeding or action under this chapter may seek appellate review under applicable court rules. Appellate review does not stay the proceedings in any other action, suit, or proceeding, or any judgment, decree, or order in the action, suit, or proceeding to which the contempt relates.

## Chapter 13.10

### Informal Dispute Resolution

#### Sections:

- 13.10.01 Authority**
- 13.10.02 Initiating Informal Dispute Resolution**
- 13.10.03 Agreed Dispositions**
- 13.10.04 Limits on Evidence, Subsequent Proceedings**
- 13.10.05 Failure to Reach a Settlement**

#### **Section 13.10.01 Authority**

Nothing in this Title shall prevent persons who are involved in a dispute from submitting their dispute to persons, organizations or agencies outside the Tribal Court for resolution in an informal manner.

#### **Section 13.10.02 Initiating Informal Dispute Resolution**

Any party to a suit, or the judge upon their own motion, may request that the parties attempt to resolve their dispute by using a mediator or a mediation panel.

#### **Section 13.10.03 Agreed Dispositions**

Where the parties are able to agree upon a mutually acceptable resolution, the terms of the agreement shall be put in writing and signed by the parties.

#### **Section 13.10.04 Limits on Evidence, Subsequent Proceedings**

In order to encourage full disclosure and cooperation between the parties, substantive information that was obtained at an Informal Dispute Resolution hearing may not be admitted into evidence at a later court hearing or proceeding unless the parties agree otherwise. However, if the subsequent proceeding involves the care of a youth, the terms of an agreed upon disposition shall be admissible.

#### **Section 13.10.05 Failure to Reach a Settlement**

In the event that the parties fail to reach agreement or if a party fails to appear at a scheduled mediation hearing, and:

- A. The mediation hearing was ordered by the judge, then the mediator shall report to the judge on the reason(s) for a failure to reach agreement; or
- B. The parties agreed to an alternative dispute resolution on their own.

Then either party may initiate formal proceedings in Tribal Court by filing a petition with the Court Clerk.

## **Chapter 13.11**

### **Codification**

#### **Sections:**

#### **13.11.01          Date of Codification**

#### **Section 13.11.01          Date of Codification**

The Ordinance was approved on February 12, 1999 at a Tribal Council Meeting. This title was codified at a Tribal Council Meeting on November 8, 2005 with Resolution #38-05.