

Title 17

Tribal Land

Chapters:

- 17.01** **Trust Land Assignment**
- 17.02** **Eviction Procedures**
- 17.03** **Codification**

Chapter 17.01

Trust Land Assignment

Sections:

17.01.01	Purpose
17.01.02	Definitions
17.01.03	Persons Eligible for Assignment
17.01.04	Use of Property
17.01.05	Interest Conveyed
17.01.06	Requirement to Improve the Land
17.01.07	Ownership of Improvements
17.01.08	Disposition of Improvements
17.01.09	Land Available for Assignment
17.01.10	Size of Assigned Lots
17.01.11	Tenure of Assignment
17.01.12	Assignment to Couples
17.01.13	Disposition of Assignment at Death, Member Spouse
17.01.14	Disposition of Assignment at Death, Non-member Spouse
17.01.15	Disposition of Assignment at Death or Remarriage of Non-member Spouse
17.01.16	Disposition of Assignment at Death-Surviving Children
17.01.17	Disposition of Assignment at Death, Name During Assignment's Use
17.01.18	Disposition of Assignment at Death, No Survivors
17.01.19	Disposition of Assignment at Death, Unmarried Couples
17.01.20	Disposition of Assignment on Divorce, Member Spouse
17.01.21	Disposition of Assignment on Divorce, Non-member Spouse
17.01.22	Disposition of Assignment on Divorce, Remarriage of Non-member Spouse
17.01.23	Disposition of Assignment of Divorce, Non Member-child or Spouse
17.01.24	Disposition of Assignment on Separation of Unmarried Couple
17.01.25	Moving from the Trust Land, Notice
17.01.26	Moving from the Trust Land, Failure to Notify
17.01.27	Relinquishment of Assignment
17.01.28	Exchanges and Transfers of Assignments Generally
17.01.29	Exchanges and Transfers of Assignments; Procedures for Request
17.01.30	Procedures for Applying for Assignment of Land
17.01.31	Certificate of Assignment, Issuance
17.01.32	Certificate of Assignment, Reassignments
17.01.33	Certificate of Assignment, Records
17.01.34	Revocation of Assignments
17.01.35	Procedure for Revocation of Assignments
17.01.36	Administration of the Chapter by Tribal Council

Section 17.01.01 Purpose

The purpose of this Chapter is to set forth the custom, practice, and policy of the 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.

Section 17.01.02 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 Tribal Council 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 17.01.09 of this Chapter;
- B. "Minor" means a person under the age of eighteen (18) 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; and
- D. "Tribal Council" means the Jamestown S'Klallam Tribal Council.

Section 17.01.03 Persons Eligible for Assignment

Enrolled members of the Tribe who are eighteen (18) years of age or older are eligible to hold an assignment of Tribal trust land, and members under the age of eighteen (18) who are married or who have a stable relationship shall also be eligible for an assignment. There shall be only one (1) 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.

Section 17.01.04 Use of Property

Parcels of Tribal trust land assigned to individual members shall be used only as permanent home sites for members and their immediate family. 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 Tribe under whatever rules and regulations the Tribal Council may provide.

Section 17.01.05 Interest Conveyed

When a person is assigned a parcel of Tribal trust land, the interest they take 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 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 written permission of the Tribal Council.

Section 17.01.06 Requirement to Improve the Land

Any person who receives an assignment of a parcel of Tribal land shall improve the land within one (1) year after the date of assignment or the assignment shall be subject to revocation. For purposes of this section "improve" shall mean clearing the land and keeping it cleared so that it is suitable for construction or installation of a residence. Within three (3) years after the date of the assignment the person receiving the assignment shall have begun actual construction or installation of a residence, or the assignment shall be subject to revocation.

Section 17.01.07 Ownership of Improvements

Any house, building, structure, or other improvement placed on an assigned lot by any person or entity other than the 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 Tribal Court.

Section 17.01.08 Disposition of Improvements

It shall be the responsibility of the owner of improvements to arrange for their removal or sale when they, for whatever reason, no longer hold 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 they move 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 Tribal Court. In seeking a declaration of abandonment from the Court, the Tribal Council shall follow the procedures established in Chapter 17.01.07 Ownership of Improvements of this Title.

Section 17.01.09 Land Available for Assignment

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

Section 17.01.10 Size of Assigned Lots

A parcel of land assigned under the provisions of this chapter shall be two hundred (200) feet by two hundred (200) feet. However, if the Tribal Council determines that the amount of Tribal land available for assignment becomes or is in danger of becoming insufficient for the projected needs of the Tribe, the Tribal Council has the power to reduce the size of the unassigned parcels by amending this Section.

Section 17.01.11 Tenure of Assignment

The holder of an assignment shall be entitled to the use and occupancy of the assignment for their lifetime, in accordance with the provisions of the Chapter.

Section 17.01.12 Assignment to Couples

Assignment of Tribal trust 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 Tribe, the assignment shall be made only in the name of the person who is a member.

Section 17.01.13 Disposition of Assignment at Death, Member Spouse

At the death of a married person who holds an assignment of Tribal trust land, the assignment shall pass to their surviving spouse if the surviving spouse is a member of the Tribe.

Section 17.01.14 Disposition of Assignment at Death, Non-member Spouse

At the death of a married person who holds an assignment of Tribal trust land, the assignment shall not pass to their surviving spouse if the surviving spouse is not a member of the 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 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 of an assignment which is for the benefit of the couple's minor children who are members of the Tribe.

Section 17.01.15 Disposition of Assignment at Death or Remarriage of Non-member Spouse

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

Section 17.01.16 Disposition of Assignment at Death-Surviving Children

If a member who holds an assignment dies leaving no spouse, the assignment may be inherited by one of their surviving children who is a member of the 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 their 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 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.

Section 17.01.17 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's spouse or an eligible surviving child, whichever is appropriate.

Section 17.01.18 Disposition of Assignment at Death, No Survivors

If the person holding the assignment dies leaving no surviving spouse and no child who is a member of the Tribe, the assignment shall automatically revert to the Tribe.

Section 17.01.19 Disposition of Assignment at Death, Unmarried Couples

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.

Section 17.01.20 Disposition of Assignment on Divorce, Member Spouse

If a married couple holding an assignment of Tribal trust land divorce and both spouses are members of the Tribe, the spouse having custody of the couple's minor children who are members of the 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.

Section 17.01.21 Disposition of Assignment on Divorce, Non-member Spouse

If the spouse having custody of the couple's minor children is not a member of 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.

Section 17.01.22 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 their new spouse is also a non-member, the couple shall not be allowed to continue using the assignment.

Section 17.01.23 Disposition of Assignment of Divorce, Non Member-child or Spouse

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

Section 17.01.24 Disposition of Assignment on Separation of Unmarried Couple

If an unmarried couple holding an assignment separates and no longer lives together, each member of the couple shall be considered "Spouses" for purposes of the operation of sections 17.01.20 through 17.01.23.

Section 17.01.25 Moving from the Trust Land, Notice

When a person who holds an assignment moves either temporarily or permanently from the trust land on which the assignment exists, they shall notify the Tribal Council in writing whether they intend to return and the appropriate date of return. If a person holding an assignment notifies the Tribal Council that they are moving permanently, the assignment shall terminate as of the date the person leaves and the Tribal Council shall have the right to reassign it.

Section 17.01.26 Moving from the Trust Land, Failure to Notify

If a person does not notify the Tribal Council as provided by section 17.01.25, the Tribal Council shall notify the

person within three (3) months after they move from the trust land that their assignment shall be revoked unless the Tribal Council receives written notice within thirty (30) days that the person intends to return and reside on the assignment. The person shall indicate in the notice to the Tribal Council the date by which they expect to return. If the person fails to respond to the Council's request for notice of intent or if the person fails to return by the specified date, the assignment shall terminate and the Tribal Council shall have the right to reassign it.

Section 17.01.27 Relinquishment of 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 their 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, thirty (30) days after the statement is received by the Tribal Council.

Section 17.01.28 Exchanges and Transfers of Assignments Generally

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

Section 17.01.29 Exchanges and Transfers of Assignments; Procedures for Request

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 grant or deny the request, whichever action it believes to be in the best interest of the Tribe. If the request for exchange or transfer is approved, new Certificates of Assignment shall be issued in the appropriate names.

Section 17.01.30 Procedures for Applying for Assignment of Land

Application for an assignment of Tribal land shall be made in the following manner:

- A. A person who wishes to have a parcel of Tribal land assigned to them shall apply in writing to the Tribal Council. The request shall be filled with the Secretary of the Tribal Council. It shall contain the name of the person or persons applying and shall describe the specific parcel of property desired as fully as possible;
- B. Within sixty (60) days after receiving a written request for an assignment, the Tribal Council shall notify the applicant of the date that they may appear before the Tribal Council to discuss the person's eligibility for an assignment and their proposed plans for its use;
- C. Within thirty (30) days after the applicant's appearance before the Tribal Council, the Council shall decide whether or not to assign the parcel to that person and shall so notify the applicant in writing. If the Tribal Council denies the request, it shall inform the applicant of the reasons for the denial; and
- D. The Secretary of the Tribal Council shall keep a complete record of all actions taken by the Tribal Council on all applications for assignment of Tribal land.

Section 17.01.31 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 given to the person named in it and a copy shall be kept on file at the Tribal Office.

Section 17.01.32 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 trust land, exchanges or transfer, relinquishments, or revocation.

Section 17.01.33 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 Tribe. Other persons may inspect the records for limited purposes if specifically authorized by the Tribal Council.

Section 17.01.34 Revocation of Assignments

The Tribal Council has the power to revoke any assignment which is being used contrary to the provisions of this Chapter. This power is in addition to the power to revoke provided for in other sections of this Chapter.

Section 17.01.35 Procedure for Revocation of Assignments

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

- A. Whenever an assignment is subject to being revoked, the Tribal Council shall so notify the holder of the assignment in writing. The notice shall state the reason for the proposed action and shall inform the person that they may, within thirty (30) days, file with the Secretary of the Tribal Council a written request to appear before the Tribal Council and present evidence as to why the assignment should not be revoked. If the Council receives a timely request, it shall notify the person of the date and time they are to appear before the Tribal Council;
- B. 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. If the holder of the assignment in question does not request an appearance before the Tribal Council, the Council shall, at the next Council meeting or as soon as practicable decide whether or not to revoke the assignment. The Tribal Council shall notify the holder of the affected assignment of its decision and the reasons as soon after the decision as possible; or
- C. A holder of an assignment who is aggrieved by the decision of the Tribal Council to revoke their assignment may appeal to the Tribal 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.

Section 17.01.36 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.

Chapter 17.02

Eviction Procedures

Sections:

17.02.01	Definitions
17.02.02	Unlawful Detainer
17.02.03	Unlawful Detainer; Notice
17.02.04	Unlawful Detainer; Complaint and Summons
17.02.05	Unlawful Detainer; Service of Summons and Complaint
17.02.06	Unlawful Detainer; Writ of Restitution
17.02.07	Judgment
17.02.08	Enforcement

Section 17.02.01 Definitions

Words in this Chapter shall have the meaning given to them in this Section unless the context clearly indicates another meaning:

- A. "Lessor" means the Tribe, Jamestown S'Klallam Tribal Housing Program and to any person or entity who shall have an interest in real property which for a limited time has been leased or rented to another. The term lessor shall also include the Housing Program which has leased real property under a Mutual Help and Occupancy 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;
- B. "Nuisance" is the maintenance of real property in 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;
- C. 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;
- D. "Tenant" means any person who occupies real property under a lease, rental agreement or other agreement with a lessor as defined in this chapter;
- E. "Unlawful Detainer Action" is a suit brought before the Tribal Court to terminate a tenant's interest in real property and/or evict any person from occupancy of real property;
- F. "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; and
- G. "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.

Section 17.02.02 Unlawful Detainer

A tenant or other occupier of land shall be guilty of unlawful detainer if they continue to occupy real property under any of the following situations:

- A. Without the requirement of any notice:
 - 1. The term of the lease or other agreement expires; or
 - 2. A person has entered onto or remains on the real property of another without the permission of the owner and without having a substantial claim of a lease or to title of the property; or
 - 3. The Housing Program has terminated a person's tenancy pursuant to procedures providing a hearing before the housing authority involved; or
- B. After receiving a thirty (30) day notice, the tenant or occupier remains in possession of the property contrary to the terms of any of these notices:
 - 1. That the person is in default in the payment of rent, and that they shall pay the rent or surrender possession of the property; or
 - 2. That the lease of property 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

3. That the person has failed to keep or perform a condition or covenant of the lease or agreement and that they shall perform the condition or covenant or surrender the property; or
4. That the person has committed or permitted waste upon the property and shall either cease, or surrender the property; or
5. That the person maintains a nuisance upon the property and shall either cease maintaining the nuisance or surrender the property.

Section 17.02.03 Unlawful Detainer; Notice

Notices required or authorized under section 17.02.04 of this chapter shall be given in writing by either:

- A. Delivering a copy personally to the tenant or to any adult member of the 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 they have complied fully with the requirements of the method of service used.

Section 17.02.04 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, and agent or attorney stating:
 1. The facts on which they seek to recover;
 2. A description of the property which identifies it with reasonable certainty; and
 3. Any claims for damages or compensation due from the persons 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 thirty (30) days from the date of service of the summons or more than six (6) months from the date of service. The summons must notify the defendant(s) that 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.

Section 17.02.05 Unlawful Detainer; Service of Summons and Complaint

A copy of the summons and complaint shall be served upon the defendants by one of the methods in section 17.02.04 of this chapter.

Section 17.02.06 Unlawful Detainer; Writ of Restitution

The Tribal Court shall enter a Writ of Restitution if:

- A. Notice of suit and trial is given by service of summons and complaint in accordance with the procedure provided in this chapter; and
- B. The Tribal Court finds that the occupier of real property is guilty of an act of unlawful detainer.

Section 17.02.07 Judgment

Upon issuance of 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, the Housing Program, 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 their costs in bringing the suit and reasonable attorney's fees.

Section 17.02.08 Enforcement

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

Chapter 17.03

Codification

Sections:

17.03.01 Codification

Section 17.03.01 Codification

This title was codified at a Tribal Council Meeting held on November 8, 2005 with Resolution #38-05.