

Title 1

General Provisions

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Chapter 1.01

General

Sections:

1.01.01 Purpose

Section 1.01.01 Purpose

The purpose of this Ordinance is to authorize the codification of all current and future ordinances adopted by the Tribal Council of the Jamestown S'Klallam Tribe ("Tribe") into titles of the Jamestown S'Klallam Tribe Code. Each title of the code will be approved as codified by the Tribal Council, and the date of approval shall be the effective date of the title.

Once a title is approved, then any future changes to the subject matter covered by the ordinance giving rise to the title will be made by an amendment by the Tribal Council to the respective title, by title, chapter and section, instead of to the ordinance.

New subject matter ordinances will continue to be used for the initial adoption of Tribal law. They will then, in turn, be codified.

This Ordinance, when codified, will become Title 1 of the code, and will be known as "General Provisions."

Chapter 1.02

How Code is to be Designated and Cited

Sections:

1.02.01 How Code is to be Designated and Cited

Section 1.02.01 How Code is to be Designated and Cited

The provisions of the Code as contained in the following titles, chapters and sections shall constitute and be designated "The Jamestown S'Klallam Tribe Code," and may be so cited. Such code may also be cited as the "JSTC." It constitutes the legally enacted statutory law of the Jamestown S' Klallam Tribe ("Tribe") pursuant to the provisions of its Constitution.

Chapter 1.03

Construction of Code

Sections:

1.03.01 Construction of Code

Section 1.03.01 Construction of Code

The rules and the definitions set forth in this Title shall be observed in the construction of this code and the ordinances of the Tribe unless such construction would be inconsistent with either the manifest intent of the Tribal Constitution, the Tribal Council or the context of this code.

Chapter 1.04

Tribal Jurisdiction

Sections:

1.04.01 Tribal Jurisdiction - General

Section 1.04.01 Tribal Jurisdiction - General

The territory and jurisdiction of the Jamestown S'Klallam Tribe shall extend over the following to the fullest extent possible under Federal Law:

- A. All lands, waters, property, airspace, other natural resources and any interest therein either now, or in the future, owned by the Tribe or individual Tribal members held in trust status or located within the boundaries of a reservation which may be proclaimed for the Jamestown S'Klallam Tribe, notwithstanding the issuance of any patent or right-of-way;
- B. All persons, property and activities located or found within the Tribe's jurisdiction;
- C. All members exercising or purporting to exercise any rights reserved by the Tribe under the Treaty of Point No Point concluded January 26, 1855 (12 State .933) and all property or activity to the extent necessary to implement and protect all rights and powers reserved or granted to the Tribe by the Treaty of Point No Point, the United States Constitution or other Federal Law.

Chapter 1.05

Definitions

Sections:

1.05.01 General Rule Regarding Definitions

1.05.02 Acts by Agents

1.05.03 And, Or

1.05.04 Code

1.05.05 Council

1.05.06 Usual and Accustomed Area (U&A)

Section 1.05.01 General Rule Regarding Definitions

All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

Section 1.05.02 Acts by Agents

When an act is required to be done which may, by law, as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

Section 1.05.03 And, Or

"And" may be read "or" and "or" may be read "and" if the sense requires it.

Section 1.05.04 Code

The words "the Code" or "this Code" shall mean "The Code of the Jamestown S' Klallam Tribe," unless the context indicates otherwise.

Section 1.05.05 Council

Whenever the word "Council" is used, it shall be construed to mean the Tribal Council of the Jamestown S' Klallam Tribe.

Section 1.05.06 Usual and Accustomed Area (U&A)

The areas of Washington State where the Tribe's rights were reserved under the Treaty of Point No Point, concluded January 26, 1855 (12 State.933), which provided in part "The right of taking fish, at all usual and accustomed grounds and stations, is further secured to said Indians . . ." and which the Boldt Decision (384 F. Supp. 312) reaffirmed.

Chapter 1.06

Rules of Construction

Sections:

1.06.01 Rules of Construction

Section 1.06.01 Rules of Construction

The following rules of construction apply to all provisions of this Code and Tribal Ordinances unless a different meaning is obviously intended:

- A. Masculine words shall include feminine words and singular words shall include the plural, and vice versa.
- B. Words shall be given their plain meaning and technical words shall be given their commonly understood meaning where no other meaning is specified.
- C. Whenever the meaning of a term is not clear, it shall be construed harmoniously with the purpose of this Code and with the purposes of the title the term fall under.

Chapter 1.07

Supplemental Provisions

Sections:

1.07.01 Severability

1.07.02 Liberal Construction

1.07.03 No Implied Waiver of Immunity No Grant of Jurisdiction

1.07.04 Express Limited Waivers of Sovereign Immunity

Section 1.07.01 Severability

If any provisions of this Code, or its application to any person or legal entity or circumstance is held invalid, the remainder of the Code, or the application of the provision to other persons or legal entities or circumstances, shall

not be affected.

Section 1.07.02 Liberal Construction

This Code shall be liberally construed to give full effect to the objectives and purposes for which it was enacted.

Section 1.07.03 No Implied Waiver of Immunity No Grant of Jurisdiction

Nothing in this Code shall be construed or implied to be a waiver of the sovereign immunity of the Tribe nor shall anything herein be construed as a grant of jurisdiction to the United States of America, the State of Washington, or any political or governmental subdivision thereof.

Section 1.07.04 Express Limited Waivers of Sovereign Immunity

Consent of the Tribe to waive its immunity from suit in Tribal, state or federal court may only be accomplished through the clear, express and unequivocal consent of the Tribe pursuant to a resolution duly enacted by the Tribal Council sitting in legal session. Any such resolution purporting to waive sovereign immunity as to the Tribe, or any of its subordinate economic or governmental units or any of its Tribal officials, employees or authorized agents, shall specifically acknowledge that the Tribe is waiving its sovereign immunity on a limited basis and describe the purpose and extent to which such waiver applies. The failure of the Tribal Council resolution to contain such language shall render it ineffective to constitute a waiver of Tribal sovereign immunity.

A Tribal Council resolution shall not waive sovereign immunity to allow a court or decision-making body (including an arbitration panel) other than the Jamestown Tribal Court to hear a dispute unless the resolution expressly and unequivocally allows such other body to hear a dispute and specifically names such decision-making body. There shall not be a waiver so as to allow monetary relief unless the resolution expressly and unequivocally so provides and then only up to the monetary limit in the resolution, provided that, failure to put an express limit on a monetary waiver shall render the waiver void. A Tribal official, employee or contractor shall lack all authority, whether actual or apparent, to waive sovereign immunity beyond the express terms in a Tribal Council resolution. Any contract or agreement purporting to grant a limited waiver of sovereign immunity, which is not supported by a Tribal Council Resolution meeting the requirements of this ordinance, shall be null and void.

Chapter 1.08

Date of Codification and Amendment

Sections:

1.08.01 Date of Codification

Section 1.08.01 Date of Codification

The General Provision became an Ordinance on 10-01-03 with Resolution #42-03 and was codified as a title in this code on October 16, 03.