

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.

(Res. 79 A 62, 8/24/1979. Formerly, “Port Gamble S'Klallam Tribal Land Assignment Ordinance”, this chapter was renumbered and slight changes in wording made to facilitate codification; Res. 95 A 044, 3/23/1995 amended this section to add the last sentence; Res. 07 A 026, 3/30/2007 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 for five (5) or more consecutive 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.
(Res. 79 A 62, 8/24/1979; Res. 84 A 03, 2/14/1984; Res. 84 A 03 amended this section, adding the portion which precedes subsection a; Res. 21-A-155, 11/22/2021 amended subsection c) to increase the number of years a couple shall live together from one to five consecutive years, to achieve “stable relationship” status. The same resolution also deleted the words “family type relationship” from the definition.)

§ 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.

(Res. 79 A 62, 8/24/1979)

§ 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.

(Res. 79 A 62, 8/24/1979; Res. 95 A 044, 3/23/1995 amended this section to add the second sentence; Res. 07 A 026, 3/30/2007 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.

(Res. 79 A 62, 8/24/1979)

§ 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 the required time-frame or the assignment shall be subject to revocation. For the purposes of the section, "improve" shall mean the following:

(1) For new lots:

(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.

(2) For lots that are already suitable for the construction or installation of a residence:

(a) One year 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) Two 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.

- (3) 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.

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

(Res. 79 A 62, 8/24/1979; Res. 00 A 045, 6/12/2000 amended this section to require culverts where needed and replaced the term “modular” with “manufactured” homes; Res. 95 A 044, 3/23/1995 amended this section to specify the clearing and improvement requirements; Res. 07 A 026, 3/30/2007 amended this section to add the language clarifying the types of dwellings that are not improvements to the lot; Res. 20 A 140, 12/14/2020, amended this section to create a separate timeline for assigned lots that are already suitable for the construction or installation of a residence.)

§ 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. (Res. 79 A 62, 8/24/1979)

§ 10.01.08. Disposition of Improvements.¹

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.

1. Cross Reference: Chapter 3.11, Abandonment of Property Procedures.

(Res. 79 A 62, 8/24/1979)

§ 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.

(Res. 79 A 62, 8/24/1979)

§ 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.

(Res. 79 A 62, 8/24/1979; Res. 95 A 044, 3/23/1995 amended this section retaining the one acre lot size but omitting the 200 feet by 200 feet lot dimensions; Res. 07 A 026, 3/30/2007 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.

(Res. 79 A 62, 8/24/1979)

§ 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.

(Res. 79 A 62, 8/24/1979)

§ 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.
(Res. 07 A 026, 3/30/2007)

§ 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.
(Res. 79 A 62, 8/24/1979)

§ 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.
(Res. 79 A 62, 8/24/1979; Res. 07 A 026, 3/30/2007 amended this section to add subsection (b).)

§ 10.01.16. 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.
(Res. 79 A 62, 8/24/1979)

§ 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.
(Res. 79 A 62, 8/24/1979; amended Res. 07 A 026, 3/30/2007)

§ 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.
(Res. 79 A 62, 8/24/1979)

§ 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.
(Res. 79 A 62, 8/24/1979; amended by Res. 07 A 026, 3/30/2007)

§ 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.

(Res. 79 A 62, 8/24/1979)

§ 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.

(Res. 79 A 62, 8/24/1979)

§ 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.

(Res. 79 A 62, 8/24/1979; Res. 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.

(Res. 79 A 62, 8/24/1979)

§ 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.

(Res. 79 A 62, 8/24/1979)

§ 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.

(Res. 79 A 62, 8/24/1979; amended by Res. 07 A 026, 3/30/2007 to edit the numbering.)

§ 10.01.26. Moving from Lot Assignment.

If a person who holds an assignment moves away from the lot assignment 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. A person shall not be considered to have moved away from his/her lot assignment for reasons that include, but are not limited to, the following: military service, attending college, work, jail, or status as a patient in a 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.

(Res. 79 A 62, 8/24/1979; Res. 07 A 026, 3/30/2007 this section to elaborate on the process of notifying the Council; Res. 20 A 140, 12/14/2020, amended this section to apply the same timeline to all tribal members who leave their assignments, regardless of where the tribal member moves.)

§ 10.01.27. Moving from a Lot Assignment - 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.

(Res. 79 A 62, 8/24/1979; amended by Res. 07 A 026, 3/30/2007)

§ 10.01.28. Moving from Lot Assignment - Authority.

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 through amendment of this code.

(Res. 07 A 026, 3/30/2007)

§ 10.01.29. Relinquishment of Lot Assignment.²

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.

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

(Res. 79 A 62, 8/24/1979; amended by Res. 07 A 026, 3/30/2007 which expanded the procedures for relinquishment.)

§ 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.
(Res. 79 A 62, 8/24/1979)

§ 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.
- (d) New Certificates Upon Approval. If the request for exchange or transfer is approved, new Certificates of Assignments shall be issued in the appropriate names.
(Res. 79 A 62, 8/24/1979; Res. 00 A 045, 6/12/2000 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 Res. 07 A 026, 3/30/2007 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.

(Res. 79 A 62, 8/24/1979; Res. 00 A 045, 6/12/2000, 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 6/12/2000; Res. 95 A 044, 3/23/1995 amended this section codifying the assignment practice that has been followed for many years; amended by Res. 07 A 026, 3/30/2007 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.

(Res. 79 A 62, 8/24/1979)

§ 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.

(Res. 79 A 62, 8/24/1979)

§ 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.

(Res. 79 A 62, 8/24/1979)

§ 10.01.36. Revocation of Assignments.³

- (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, or d) the lot holder is in violation of the Tribe's Lot Clean-Up Policy, the Tribe has given notice of violation to the lot holder, and the lot holder has failed to comply with the notice requirements. 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

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

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.

(Res. 79 A 62, 8/24/1979; Res. 00 A 045, 6/12/2000 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; amended by Res. 07 A 026, 3/30/2007 to expand the grounds for revocation and to add procedures for reassignment; Res. 20 A 140, 12/14/2020, amended subsection (a) to include reference to the Tribe's Lot Clean-Up Policy.)

§ 10.01.37. Procedure for Revocation of Assignments.⁴

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.

4. Cross Reference: Section 7.04.01 provides 20 days to file an appeal.

- (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.

(Res. 79 A 62, 8/24/1979; Res. 00 A 045, 6/12/2000 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.)

§ 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.

(Res. 79 A 62, 8/24/1979)

§ 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.

(Res. 03 A 117, 7/15/2003 adopted this section on an emergency basis; Res. 03 A 129, 9/09/2003 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.

(Res. 03 A 129, 9/09/2003; amended by Res. 07 A 026, 3/30/2007 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.

(Res. 07 A 026, 3/30/2007)

§ 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.

(Res. 07 A 026, 3/30/2007)

§ 10.01.43. Status of Lot Upon Repossession of Home.⁵

- (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.

(Res. 07 A 026, 3/30/2007)

5. **Cross Reference: Section 10.01.37, Procedure for Revocation of Assignments.**