

# Marijuana Compact

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Between

The Port Gamble S'Klallam Tribe

and

The State of Washington

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## **I. INTRODUCTION**

This compact is entered into pursuant to House Bill 2000, Chapter 207, Laws of 2015 (the “Compacting legislation”). This document will be cited as the “Marijuana Compact Between the Port Gamble S’Klallam Tribe and the State of Washington, hereinafter referred to as the “Compact.”

## **II. PARTIES**

The Parties to this Compact are the Port Gamble S’Klallam Tribe (“Tribe”) and the State of Washington (“State”) (collectively, “Parties”).

The Tribe is located on the Port Gamble S’Klallam Indian Reservation, which is in the state of Washington, and the Tribe is a federally-recognized sovereign Indian tribal government.

The State of Washington is a state within the United States of America, possessed of the full powers of a state government. The Washington State Liquor and Cannabis Board (“Board”) is an executive department of the State government with statutory authority under RCW chapters 69.50 and 69.51A. The Compacting legislation allows the Governor of Washington State to enter into an agreement with any federally recognized Indian tribe located within the geographical boundaries of the State regarding marijuana and to delegate the power to negotiate such agreement to the Board.

## **III. PURPOSE AND INTENT**

Historically, the production, possession, delivery, distribution and sale of marijuana have been illegal across the United States and in Indian Country. In 2012, Washington voters passed Initiative 502 (“I-502”) which sets forth a tightly regulated, state-licensed system allowing for the production, processing, and retail sale of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products for recreational purposes within the State of Washington.

While the federal Controlled Substances Act continues to designate marijuana as a Schedule 1 substance, the United States Department of Justice on August 29, 2013, issued a memorandum to all United States Attorneys setting forth guidance regarding

marijuana enforcement. In that memo, James M. Cole, Deputy Attorney General, set forth eight enforcement priorities of particular importance to the federal government, including: preventing the distribution of marijuana to minors; preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels; preventing the diversion of marijuana from states where it is legal under state law in some form to other states; preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity; preventing violence and the use of firearms in the cultivation and distribution of marijuana; preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use; preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and preventing marijuana possession or use on federal property. The memo further states that the focus of federal law enforcement resources and efforts will be on those whose conduct interferes with the stated priorities and that state and local governments should provide sufficiently robust regulatory and enforcement systems to protect against these harms.

On October 28, 2014, the United States Department of Justice issued another memorandum to all United States Attorneys providing a policy statement regarding marijuana issues in Indian Country. In that memo, Monty Wilkinson, Director, Executive Office for United States Attorneys, acknowledged that “the eight priorities in the Cole Memorandum will guide United States Attorneys’ marijuana enforcement efforts in Indian Country, including in the event that sovereign Indian Nations seek to legalize the cultivation or use of marijuana in Indian Country.” That memo effectively treats tribal governments the same as state governments in the decision to legalize marijuana.

Through State law and the Board’s implementing rules, the State has legalized possession of limited amounts of marijuana and the production, processing, and sale of marijuana by licensed businesses and has set forth a civil regulatory system that accomplishes the federal priorities set forth above and keeps marijuana production, processing, and sale in the State regulated and safe for the public.

After serious deliberation, the Tribe, as a sovereign nation, has also determined that present day circumstances make a complete ban of marijuana within Indian Country ineffective and unrealistic and has decriminalized its sale and possession in certain circumstances. At the same time, consistent with the federal priorities, the need still exists for strict regulation and control over the production, possession, delivery, distribution, sale, and use of marijuana in Indian Country.

The State and the Tribe have recognized the need for cooperation and collaboration with regard to marijuana in Indian Country. The State has authorized the entry of this Compact by the Compacting legislation, enacted by the 2015 Regular Session of the Legislature on April 24, 2015, signed by the Governor on May 8, 2015, and effective on July 24, 2015. Laws of 2015, Chapter 207. Through Section 2 of this legislation, codified at RCW 43.06.490, the State authorized the Governor to enter Compacts concerning the regulation of marijuana and to delegate the authority to negotiate the Compacts to the Board.

The Parties share a strong interest in ensuring that marijuana production, processing, and sales in Indian Country are well-regulated to protect public safety and community interests. The Parties acknowledge that pursuant to federal law, 21 U.S.C. § 812, marijuana is a Schedule I controlled substance and that this Compact does not protect the sales or regulation of marijuana in Indian Country from federal law; however, the Parties have entered into this Compact in order to strengthen their ability to meet these mutual interests and to provide a framework for cooperation to ensure a robust tribal and state regulatory and enforcement system sufficient to meet the federal priorities.

The Parties agree that it is in the best interests of the Tribe and the State that they further implement the government-to-government relationship between them, as recognized in the Centennial Accord of August 4, 1989, by entering into a compact to protect public health and safety, ensure a lawful and well-regulated marijuana market, encourage economic development in Indian Country, and provide fiscal benefits to both the Tribe and the State.

#### **IV. DEFINITIONS**

- A. “Auditor” means a certified public accountant licensed and in good standing in the State of Washington.
- B. “Board” means the Washington State Liquor and Cannabis Board and its staff.
- C. “Compact” means this Marijuana Compact Between the Port Gamble S’Klallam Tribe and the State of Washington, as it may be amended.
- D. “Essential Government Services” means services provided by the Tribe including, but not limited to, administration, public facilities, fire, police, health,

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education, elder care, social services, sewer, water, environmental and land use, transportation, utility services, community development, and economic development.

- E. “Indian Country,” as defined by 18 U.S.C. § 1151, means the lands of the Port Gamble S’Klallam Tribe, including the Tribe’s Indian Reservation and all lands held in trust or restricted fee status by the United States for the Tribe or its Tribal Members.
- F. “Marijuana,” marijuana concentrates,” “marijuana-infused products,” and “useable marijuana” as used in this Compact shall have the same meanings as in RCW 69.50.101 or any amendments thereto. Together, these terms shall be referred to as “marijuana product” or “marijuana products.”
- G. “Parties” means the Tribe and the State.
- H. “NKDC” means the Nookayet Development Coporation, or its subsidiary Nookayet Enterprises Corporation, each a corporation issued under Section 17 of the Indian Reorganization Act of June 18, 1934, (48 Stat. 984) and as amended, and 25 U.S.C. §477 and each wholly owned by the Tribe.
- I. “Processor” means any marijuana processor licensed to process, package, and label useable marijuana, marijuana concentrates, and marijuana-infused products for sale at wholesale to processors and retailers by the Board pursuant to RCW 69.50.325 and any marijuana processor in Indian Country licensed or otherwise allowed by the Tribe or any other tribe with a marijuana compact with the Board.
- J. “Producer” means any marijuana producer licensed to produce and sell marijuana at wholesale to processors and other producers by the Board pursuant to RCW 69.50.325 and any marijuana producer in Indian Country licensed or otherwise allowed by the Tribe or any other tribe with a marijuana compact with the Board.
- K. “Retailer” means any marijuana retailer licensed to sell useable marijuana, marijuana concentrates, and marijuana-infused products in a retail outlet by the Board pursuant to RCW 69.50.325 and any marijuana retailer in Indian Country

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licensed or otherwise allowed by the Tribe or any other tribe with a marijuana compact with the Board.

- L. “Research and Testing Facility” means any business that conducts research and testing of marijuana products for quality control, potency and safety compliance for medical and other uses.
- M. “State” means the State of Washington.
- N. “State Licensee” means any marijuana producer, marijuana processor, or marijuana retailer licensed by the Board pursuant to RCW Chapter 69.50, WAC Chapter 314-55, or any other regulations promulgated thereunder.
- O. “State Tax” means the marijuana excise tax as stated in RCW 69.50.535 and the State and local sales and use tax on sales of marijuana as stated in chapters 82.08 and 82.12 RCW, all as may be amended from time to time.
- P. “Tribal Police” if applicable means the (Port Gamble S’Klallam Public Safety Department).
- Q. “PGST L & O Code” means the Port Gamble S’Klallam Tribal Code.
- R. “Tribal Enterprise” means the NKDC or other business owned in whole or in part by the Tribe or its subsidiaries and authorized to sell marijuana products under the PGST L & O Code.
- S. “Tribe” means the Port Gamble S’Klallam Tribe.
- T. “Tribal Member Business” means a business owned by an enrolled member of the Tribe.
- U. “Tribal Tax” means a tax imposed by the Tribe on marijuana activities.

## V. GENERAL MATTERS

- A. Sovereign Immunity. The Parties agree that, except for the limited purpose of resolving disputes in accordance with the Dispute Resolution Section below, the signing of this Compact by the Tribe does not imply a waiver of sovereign immunity by the Tribe or any of its subdivision or enterprises and is not intended

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as a waiver of sovereign immunity and that any action by the State in regard to marijuana regulation by the Tribe shall be in accord with this Compact.

- B. Tribe Does Not Submit to State Jurisdiction. By entering into this Compact, the Tribe does not concede that the laws of the State apply to the Tribe, its businesses, agents, or members regarding activities and conduct within Indian Country.
- C. State Does Not Concede Tribal Immunity. By entering into this Compact, the State does not concede that the Tribe has any immunity from the State’s tax and collection provisions.
- D. This Compact Does Not Create any Third Party Beneficiaries. No third party shall have rights or obligations under or be considered a beneficiary of this Compact.
- E. Jurisdiction. This Compact does not increase or reduce the jurisdiction of either the Tribe or the State.
- F. No Limitation. The Parties agree that the signing of this Compact and the resultant benefits and obligations shall not be construed as limiting any otherwise lawful activity of the Tribe or its subdivisions or enterprises nor subject the Tribe or its subdivisions or enterprises to any State jurisdiction not agreed to in this Compact.
- G. Applicability. Consistent with RCW 43.06.490, this Compact applies to the production, processing, and sale of marijuana products in Indian Country where the Tribe or Tribal Enterprise (i) delivers or causes delivery to be made to or receives delivery of marijuana products from a State Licensee or (ii) physically transfers possession of marijuana products from the seller to the buyer within Indian Country. Except as otherwise provided herein, the production, processing, sale, and possession of marijuana products in Indian Country pursuant to the Port Gamble S’Klallam Tribal Code and in accordance with this Compact are not subject to the terms of chapter 69.50 RCW and chapter 314-55 WAC, or any other regulations promulgated under those chapters, and any such activities will not be a criminal or civil offense under Washington state law.
- H. State Licensees.
  - 1. The Tribe may purchase marijuana products from or sell marijuana products to State Licensees or any other entity operating under a valid Compact authorized by the Compacting legislation, including any amendments thereto,



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- with or otherwise authorized by the State. All transactions between the Tribe or Tribal Enterprise and State Licensees must be executed through the State traceability system, and marijuana products purchased from or sold to State Licensees must be fully compliant with all State marijuana laws and rules, including packaging, testing, and labelling.
2. The State will not cite, fine, or otherwise take any other adverse licensing or other action against any State Licensee for the mere fact that it bought or sold marijuana products from or to the Tribe or a Tribal Enterprise in accordance with the terms of this Compact and the Port Gamble S’Klallam Tribal Code.
  3. To the extent necessary, the State will work with the Tribe and with any State Licensees or otherwise authorized producers, processors, or retailers to assure such entities that the Tribe and Tribal Enterprises are legally authorized to purchase and sell marijuana products pursuant to the terms of this Compact.
- I. Tribal Member Businesses. The current Port Gamble S’Klallam Tribe Code does not permit Tribal Member Businesses to conduct retail sales, producing, processing, research or testing of marijuana products in Indian Country. However, if the Tribal Law is revised to allow it, then the Tribal Member Business may not purchase from or sell to a State Licensee, or conduct research or testing for transactions with a State Licensee, until such time as this Compact is amended to include it.
  - J. Buffer Zone Requirements. To maintain community safety, marijuana businesses in the Port Gamble S’Klallam Reservation must follow buffer zone requirements outlined in RCW 69.50.331 (8)(a); provided, however, that those requirements shall apply only in cases of facilities identified in RCW 69.50.331 that were located and opened before the Tribe opened the marijuana business in question; and provided further, that it shall not be deemed a violation of this section for the Tribe to permit the same types of exceptions to those requirements that RCW 69.50.331(b) and (c) allow cities, counties, and towns to adopt.
  - K. References to Laws, Rules and Policies. References herein to Tribal ordinances, Tribal and State laws, and to Tribal, State, and Board rules and policies, include ordinances, laws, rules, and policies in existence as of the effective date of this Compact, together with any amendments that may be adopted during the term of the Compact. References herein to specific titles, chapters, or sections of the Tribal Code, the Revised Code of Washington, or the Washington Administrative Code, include the cited titles, chapters, and sections as they exist on the effective date of this Compact, together with any amendments or renumbering that may be adopted during the term of this Compact.

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## VI. RETAIL SALES

- A. Retail Sales. The Tribe and/or its Tribal Enterprises may sell marijuana products in Indian Country pursuant to the Port Gamble S’Klallam Tribal Code and this Compact. This compact does not permit Tribal Member Businesses to conduct retail sales of marijuana products in Indian Country.
- B. Initial Location. The retail locations will be operated by the NKDC and located at 30521 Hansville Road NE, Kingston, WA 98346 (The Southeast Quarter of the South Half of the East Half of the Southeast Quarter of Section 9, Township 27 North, Range 2 East, Willamette Meridian. Except the South 60 feet and the East 30 feet therefrom for roads. Situate in the County of Kitsap, State of Washington) (see Exhibit B).
- C. Other sales by the Tribe or a Tribal Enterprise. The Tribe shall notify the State at least 30 days prior to the opening of any other Retailer owned by the Tribe or Tribal Enterprise. Only new retail locations and not the location set forth in the Initial Location Section above shall be subject to this Section. Such notifications shall include:
1. The identity of the entity which is operating the retail location;
  2. Location of the premises; and
  3. Certification that the premises is located in Indian Country.
- D. Conditions on Retail Sales.
1. Retail sales of marijuana products by the Tribe and any Tribal Enterprise must be conducted in accordance with Port Gamble S’Klallam Tribal Code and the internal policies and controls of the Tribe or Tribal Enterprise. The Port Gamble S’Klallam Tribal Code Chapter 23.03 as it exists on the date of this Compact is attached as Exhibit A. Current copies of the Port Gamble S’Klallam Tribal Code Chapter 23.03 and marijuana internal policies and controls of the Tribe and any Tribal Enterprise will be made available online or made available for review by the Board upon request. The Tribe agrees to notify the Board of any changes to the Port Gamble S’Klallam Tribal Code that may affect marijuana products within ten days of the date of adoption by the Tribe.

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2. All marijuana products purchased by the Tribe or a Tribal Enterprise from a State-licensed producer or processor will be verified upon delivery in Indian Country, and confirmation of receipt will be made by executing the delivery invoice. The Tribe or Tribal Enterprise will input or cause to be input all delivered purchases into the State’s tracking system within 24 hours of receiving any such delivery.
3. All marijuana products purchased by the Tribe or a Tribal Enterprise from the tribal government, Tribal Enterprise, or member of another federally recognized Indian Tribe with a reservation located within the state of Washington, or sold by the Tribe or a Tribal Enterprise to a tribal government, Tribal Enterprise, or member of another federally recognized Indian Tribe with a reservation located within the state of Washington, will be recorded in either the Tribe’s or the State’s tracking system within 24 hours of any such receipt or delivery. The Tribe and any Tribal Enterprise will make such records available for review by the Board upon request.

## **VII. PRODUCING AND PROCESSING**

- A. Producing and Processing of Marijuana Products. The Tribe may allow the production and processing of marijuana products in Indian Country pursuant to the following terms:
  1. Producing and/or Processing Location. The Producing and/or Processing location will be operated by the Port Gamble S’Klallam Tribe and located at The East Half of the North Half of the East Half of the Southeast Quarter of Section 9, Township 27 North, Range 2 East, Willamette Meridian. Situate in the County of Kitsap, State of Washington. (See Exhibit C) Physical address will be provided to the State in accordance with the notice provisions included below.
  2. Production and/or Processing by the Tribe or a Tribal Enterprise. The Tribe shall notify the State at least 90 days prior to the start of operations of any Producer or Processor owned by the Tribe or a Tribal Enterprise. Only new Producing and/or Processing locations and not the location set forth in the Producer and/or Processing Location Section above shall be subject to this Section. Such notifications shall include:

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- a. The identity of the entity which is operating the Producer or Processor location;
  - b. Location of the premises; and
  - c. Certification that the premises are located in Indian Country.
3. Conditions on Producers and Processors.
- a. Production and processing of marijuana products by the Tribe and any Tribal Enterprise must be conducted in accordance with the Port Gamble S’Klallam tribal Code Chapter 23.03 and the internal policies and controls of the Tribe or Tribal Enterprise. The Port Gamble S’Klallam Tribal Code Chapter 23.03 as it exists on the date of this Compact is attached as Exhibit A. Current copies of the Port Gamble S’Klallam Tribal Code Chapter 23.03 and any internal marijuana policies and controls of the Tribe and any Tribal Enterprise will be made available online or made available for review by the Board upon request. The Tribe agrees to notify the Board of any changes to the Port Gamble S’Klallam Tribal Code that may affect marijuana products within ten days of the date of adoption by the Tribe.
  - b. The State requires that marijuana products sold by Producers or Processors to State Licensees be packaged, tested, and labeled in compliance with State marijuana laws. With respect to “edibles” this must include State preapproval of the product, packaging, and labeling before sale to State Licensees; PROVIDED, that such preapproval shall not be unreasonably withheld and shall be timely provided. All transactions between the Tribe or Tribal Enterprises and State Licensees will be executed through the state traceability system following the same rules as State Licensees. All marijuana products sold to State Licensees will be fully traceable in the state’s traceability system. Marijuana products will trace back to the plant(s) they were derived from and include results for all required quality assurance testing. All required test results must be entered into the traceability system by a Board-certified testing laboratory.

## **VIII. RESEARCH AND TESTING OF MARIJUANA PRODUCTS**

- A. The Tribe may allow the opening of a Research and Testing Facility pursuant to the following terms:

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1. The Tribe shall notify the State at least 90 days prior to the start of operations of any Research and Testing Facility owned by the Tribe or a Tribal Enterprise. Such notifications shall include:
  - a. The identity of the entity which is operating the Research and Testing Facility.
  - b. Location of the premises.
- B. Research and Testing Operations. Subject to the notification provisions contained herein, the Tribe is authorized to operate a research and testing lab (“Testing Lab”) that will, for a fee, conduct scientific and safety testing services for substances including cannabis.
- C. Certification. The Tribe will obtain and maintain certification consistent with Board rules including any amendments thereto, from the Board or the Board's vendor before conducting testing for State Licensees, and will conduct no testing for State Licensees during any period in which the Tribe's Testing Lab is not certified. The Tribe must pay all vendor fees for certification, recertification, and ongoing monitoring directly to the vendor. The Tribe agrees that the Tribe's Testing Lab will meet the Board's certification criteria to be certified as a lab that meets the standards in state law for conducting quality assurance testing consistent with Board rules.
- D. Testing Standards. The Tribe's Testing Lab will perform the tests described in the Board rules when conducting testing for State Licensees.
- E. Federal Standards. The Tribe will conduct operations of the Testing Lab in a manner consistent and in compliance with the standards set forth by the United States Department of Justice in the Cole Memorandum and in other documents relevant to the enforcement of laws dealing with marijuana.
- F. Clientele. The Parties recognize that the Tribe's Testing Lab may offer its services to, among others, State-licensed producers, processors and retailers of marijuana, marijuana concentrates, and marijuana-infused products. The Tribe will obtain certification from the Board or the Board's vendor before conducting testing for State Licensees, and will conduct no testing for State Licensees during any period in which the Tribe's Testing Lab is not certified. When conducting testing for State Licensees, the Tribe's Testing Lab will report all required quality assurance test results directly into the Board's seed-to-sale traceability system within twenty-four hours of completion and record in the Board's seed-to-sale

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traceability system an acknowledgment of the receipt of samples from state-licensed producers or processors and verify if any unused portion of the sample was destroyed.

- G. The Tribe's Testing Lab may conduct quality assurance testing on marijuana product(s) produced or processed by the Tribe or Tribal Enterprise, as provided for herein.
1. In accordance with Chapter 314-55 WAC, for marijuana products produced by the Tribe or Tribal Enterprise for sale to a State Licensee, the Tribe shall ensure that the products are tested by a certified third-party testing lab in which the Tribe has no financial interest, and that the products comply with all legal and regulatory testing and product requirements. At its option, the Tribe's Testing Lab may also test such products, but no label or statement of testing results shall appear on a marijuana product that differs from the results determined by the certified third-party testing lab in which the Tribe has no financial interest.
  2. The Tribe's Testing Lab may perform the tests described in the Board rules when conducting testing of marijuana products produced by the Tribe or Tribal Enterprise (1) for sale by the Tribe or Tribal Enterprise at a retail location within Indian Country, or (2) for use at a medical facility operated by the Tribe or by a corporation wholly-owned by the Tribe in Indian Country.

## **IX. NOTICE TO LOCAL JURISDICTIONS**

- A. The Parties agree that it is in the best interests of both Parties that notice be provided to neighboring jurisdictions prior to the commencement of operations of a Producer, Processor, Retailer, or Research and Testing Facility.
1. When the Tribe or any other Tribal enterprise proposes to open a new Producer, Processor, or Retailer the Tribe will provide, at least 30 days prior to the commencement of operations, written notice to the county and to the cities in and adjacent to which the activity will occur. The Parties agree that the purpose of the notice is to facilitate an exchange of information that may be helpful to all parties concerned in addressing unanticipated impacts with the understanding that such notice related to Indian Country is a matter of intergovernmental courtesy and not required by state law.

2. In accordance with the direction of the Legislature in RCW 43.06.490(3)(c) and 69.50.331 to address problems arising out of cross-border commerce, when any business that is not a Tribal business applies to the Board for a Producer, Processor, or Retailer license for a location in Indian Country, the Board agrees that such license will not be granted without the person or business first obtaining express written consent of the Tribe. The Tribe agrees to respond to the express written consent request within 30 days of notification from the Board. If the Tribe does not respond within 30 days, the Board will assume non-concurrence.

## **X. TAXATION AND RECORD-KEEPING**

The Parties recognize that RCW 43.06.490(2)(a) provides that “Each marijuana agreement adopted under this section must provide for a tribal marijuana tax that is at least one hundred percent of the state marijuana excise tax imposed under RCW 69.50.535 and state and local sales and use taxes on sales of marijuana.” The Parties further recognize that Sections 3, 4, and 5 of the Compacting legislation, codified at RCW 69.50.555, 82.08.9997, and 82.12.9997, provide exemptions from certain state taxes under the circumstances described in those sections.

### A. State Tax.

Pursuant to RCW 69.50.555 no State Tax or fee, assessment, or other charge imposed by Chapter 69.50 RCW may be assessed against or collected from the Tribe, Tribal Enterprise, or retail customer purchasing from the Tribe or Tribal Enterprises if covered under the provisions of this Compact.

### B. Tribal Tax.

1. Sales of marijuana products. The Tribe shall impose and maintain a Tribal Tax that is equal to at least 100 percent of the State Tax on all sales of marijuana products in Indian Country, except that, consistent with RCW 43.06.490(2), the tribe may allow an exemption from tax for sales to the Tribe, Tribal Enterprise, Tribal Member Business, or an enrolled member

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of the Tribe [,] on marijuana grown, produced, or processed within Indian Country, or for transactions otherwise exempt from state marijuana taxation under state or federal law. Medical marijuana products used in the course of medical treatment by a clinic, hospital, or similar facility owned and operated by the Tribe within Indian Country are exempted from tax. The Tribe may choose to levy a Tribal Tax on any transaction that may otherwise be exempt.

2. While not required under State law, the Tribe agrees to use the proceeds of the Tribal Tax for Essential Government Services.
- C. At the State’s request, the Tribe will retain, at its own expense, an Auditor to test the Tribe’s compliance with this Taxation and Record-Keeping Section of the Compact. The Auditor will review a sample of records to verify the requirements of this section and will provide the State with a report detailing the results of the testing procedures, to include identification of any instances of noncompliance with the terms of this section.

## **XI. SAFETY AND ENFORCEMENT**

- A. The Tribe shall address safety and enforcement issues in accordance with Title 5 of the Port Gamble S’Klallam Tribal Code, this Compact, and internal policies and controls of the Tribe or Tribal Enterprise.
1. Premises Checks
    - a. Premise Checks by the Tribe. The tribal police or other authorized agency may conduct its own premises checks in Indian Country to observe compliance with Tribal Code and this Compact and to provide support and education to Tribal Enterprises and staff. To the extent it is informed of the results of such premises checks, the Port Gamble S’Klallam Tribe will share the results of the premises checks with the Board.
    - b. Premise Checks by the Board. The Board, through its staff, may also conduct premises checks. Prior to conducting any such check, the Board will contact the tribal police to provide reasonable notice of such premises check. Except as provided in the Cooperation Section below, the tribal police may observe and participate in all premises



checks. The Board will share the results of such premises checks with the Tribe.

2. Compliance Checks - Minors

a. Compliance Checks by the Tribe. The Tribe may conduct its own compliance checks in Indian Country using minors ages 18, 19, or 20 through the tribal police or other authorized agency in accordance with Tribal regulations and policies. To the extent it is informed of the results of such checks, the Tribe will provide the results of the checks to the Board. No criminal action may be taken against any minor who purchases marijuana as part of such a compliance check.

b. Compliance Checks by the Board. Board staff may also conduct compliance checks. Prior to conducting any such check, the Board will contact the Tribal Police to provide reasonable notice of such compliance check. Except as provided in the Cooperation Section below, the Tribal Police may observe and participate in all compliance checks. The Board will share the results of such compliance checks with the Tribe.

3. Cooperation. Both Parties will cooperate in good faith to undertake all Board requested checks jointly. The Tribal Police will make reasonable efforts to arrange and conduct all Board requested premises or compliance checks within 24 hours of being provided written notice of such request by the Board. All such written notice shall be sent to the Chief of the Tribal Police and the Chairman of the Tribe. However, if the Tribal Police are unable or unwilling to arrange and conduct such requested premises or compliance checks 48 hours after receiving the original written notice, the Board may then perform the premises or compliance check on its own without the Tribal Police. Should either Party have any concerns arising out of a premises or compliance check or the results thereof, the Parties will meet in good faith to discuss any suggested changes to protocols for the premises or compliance checks themselves or for marijuana sales by the Tribe or Tribal Enterprise that were checked.

4. Transportation Outside Indian Country. Transportation of marijuana products outside the boundaries of Indian Country shall be conducted in compliance with state law and Board rules.

## XII. DISPUTE RESOLUTION

- A. Process Required. Neither Party, nor any officer or official acting on behalf of a Party, may petition any court to enforce this Compact unless (a) the dispute resolution process described in this Dispute Resolution Section has been followed in good faith to completion without successful resolution or (b) the other Party fails to enter into the dispute resolution. Should a dispute arise between the Parties regarding compliance with this Compact by either Party, the Parties will attempt to resolve the dispute through the following dispute resolution process:
- B. Notice. Either Party may invoke the dispute resolution process by notifying the other, in writing, of its intent to do so. The notice must set out the issues in dispute and the notifying Party’s position on each issue.
- C. Meet and Confer. The first stage of the process will include a face-to-face meeting between representatives of the two Parties to attempt to resolve the dispute by negotiation. The meeting must be convened within 30 days after the receiving Party’s receipt of the written notice described in the Notice Section above. The representatives of each Party will come to the meeting with authority to settle the dispute. If the dispute is resolved, the resolution will be memorialized in a writing signed by the Parties.
- D. Mediation. The second stage of the process will be that if the Parties are unable to resolve the dispute within sixty (60) days after receipt of the initial written notice, the Parties will engage the services of a mutually agreed-upon qualified mediator to assist them in attempting to negotiate the dispute. Costs for the mediator will be divided equally by the Parties. The Parties will pursue the mediation process in good faith until the dispute is resolved or until ninety (90) days after the date of the mediation demand, whichever occurs first. The Parties may continue mediation after the 90-day period by mutual agreement. If the Parties cannot agree on a format for the mediation process, the format will be determined by the mediator. If the dispute is resolved, the resolution will be memorialized by the mediator in a writing signed by the Parties, which will bind the Parties.

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- E. Procedure if the Dispute Remains Unresolved. After completion of the process described in the Dispute Resolution, Process Required Section above or one hundred eighty (180) days after the written notice described in Dispute Resolution, Notice Section above, whichever occurs first, either Party may terminate this Compact upon thirty (30) days’ written notice sent to the persons listed in the Communication and Notice, Designated Contacts Section.
  
- F. Defense of This Compact. In any action filed by a third party challenging either the Tribe’s or the State’s authority to enter into or enforce this Compact, the Parties each agree to support the Compact and defend each of their authority to enter into and implement this Compact; provided, however, that this provision does not waive, and shall not be construed as a waiver of, the sovereign immunity of the Tribe or any of its subdivisions or enterprises.
  
- G. Traceability. Should either Party have any concerns arising out of operation of the traceability system or the results thereof, the Parties will meet in good faith to discuss any issues. If the Parties fail to come to a resolution, either Party may invoke the Dispute Resolution Process of this Compact.

### **XIII. COMMUNICATION AND NOTICE**

- A. Designated Contacts. The Parties agree to maintain regular and open communication regarding the administration and implementation of this Compact. The Parties agree that the following individuals will be designated primary contacts regarding administration of this Compact:

For the State:

Agency Director  
Liquor and Cannabis Board  
3000 Pacific Ave SE  
PO Box 43080  
Olympia WA 98504 3080  
360-664-1650

For the Tribe:

Executive Director  
31912 Little Boston Rd NE  
Kingston, WA 98346

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360-297-6259

- B. The Parties agree that if either Party believes that the goals and objectives of this Compact are not being met, that they will meet promptly to discuss any issues and concerns.
- C. Notice. Any notice that may be or is required to be sent under this Compact shall be sent as follows:

If to the State:

Office of the Governor  
PO Box 40002  
Olympia WA 98504 0002

With a copy to:

Agency Director  
Liquor and Cannabis Board  
3000 Pacific Ave SE  
PO Box 43080  
Olympia WA 98504 3080

360-664-1650

If to the Tribe:

Office of the Chairman  
31912 Little Boston Rd NE  
Kingston, WA 98346

With a copy to:

Executive Director  
31912 Little Boston Rd NE  
Kingston, WA 98346  
360-297-6259

#### XIV. EFFECT, DURATION, AND AMENDMENT

- A. Term. This Compact shall remain in effect for a term of ten years unless the Parties mutually agree in writing that the Compact should be vacated or terminated and superseded by a new compact between the Parties within that time frame, or unless the Compact is terminated pursuant to the Dispute Resolution, Procedure if the Dispute Remains Unresolved Section above. The Compact shall be automatically renewed for successive periods of ten years, unless a Party provides written notice to the other, no later than 120 days before the expiration of the then current ten-year period, that it wishes to modify the terms of the notice that declines to renew the Compact.
- B. Amendment. No amendment or alteration of this Compact shall arise by implication or course of conduct. This Compact may be altered only by a subsequent written document, approved by the Parties, expressly stating the Parties' intention to amend this Compact.
- C. Severability. If any provision of this Compact or its application to any person or circumstance is held invalid, the remainder of the Compact shall not be affected.
- D. Change in Classification. If the classification of marijuana as a Schedule I drug is altered in any way or federal marijuana enforcement policy (as described above) changes, the Parties agree to meet and discuss the need to modify this Compact. If such modifications cannot be agreed upon, then either Party may terminate this Compact upon 60 days written notice.

This Compact is hereby made this 4<sup>th</sup> day of January, 2018.

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STATE OF WASHINGTON

PORT GAMBLE S'KLALLAM TRIBE

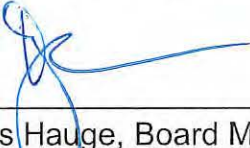
  
\_\_\_\_\_  
Jay Inslee, Governor

  
\_\_\_\_\_  
\_\_\_\_\_, Chairman

WASHINGTON STATE LIQUOR AND  
CANNABIS BOARD

\_\_\_\_\_  
Jane Rushford, Board Chair

  
\_\_\_\_\_  
Ollie Garrett, Board Member

  
\_\_\_\_\_  
Russ Hauge, Board Member

  
\_\_\_\_\_  
Rick Garza, Agency Director

Exhibit A

Port Gamble S’Klallam Tribe Law and Order Code  
Title 23 and Title 5

## TITLE 23 BUSINESS AND TAXATION

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## TITLE 23 BUSINESS AND TAXATION

### Chapter 23.01 Cigarette and Sales Tax Code

#### 23.01.01 Authority

The authority of the Tribal Council of the Port Gamble S'Klallam Tribe to adopt this ordinance as codified in this title is found in the Constitution of the Port Gamble S'Klallam Tribe and in the inherent sovereignty of the Port Gamble S'Klallam Tribe to regulate its own territory and activities therein.

[HIST: Source - Resolution No. 03 A 148, passed 10/28/03.]

#### 23.01.02 Purpose

The Tribal Council of the Port Gamble S'Klallam Tribe finds that regulation of the sale of cigarettes is essential to the health and welfare of the Port Gamble S'Klallam Tribe and its members. The Tribal Council further finds that a tax base is essential to the Tribe's ability to provide goods and services, and to finance government operations and economic development, for the safety, health and welfare of the Port Gamble S'Klallam Tribe, its members, and those who work on, live on, and visit the Tribe's Tribal Lands. Therefore, in the public interest and for the welfare of the people of the Port Gamble S'Klallam Tribe, its employees, the residents of and visitors to Tribal Lands, the Port Gamble S'Klallam Tribal Council, in the exercise of its authority under the Tribal Constitution, declares its purpose by the provisions of this chapter to regulate the sale of cigarettes and to impose, collect and administer taxes on the retail sale of cigarettes.

[HIST: Source - Resolution No. 03 A 148, passed 10/28/03.]

#### 23.01.03 Scope

- a) Application. This chapter shall apply to the full extent of the sovereign jurisdiction of the Port Gamble S'Klallam Tribe in Tribal Lands.
- b) Compliance with this chapter is hereby made a condition of the use of any land or premises in Tribal Lands.
- c) Deemed to Consent. Any person who resides, conducts business, engages in a business transaction, receives benefits from the Tribal government, including police, fire or emergency services, acts under Tribal authority, or enters the Tribal Lands under the jurisdiction of the Port Gamble S'Klallam Tribe, shall be deemed thereby to have consented to the following:
  - 1) To be bound by the terms of this chapter;

- 2) To the exercise of civil jurisdiction by the Port Gamble S'Klallam Tribal Court over said person in legal actions arising pursuant to this chapter, and
- 3) To detainment, service of summons and process, and search and seizure, in conjunction with legal actions arising pursuant to this chapter.

[HIST: Source - Resolution No. 03 A 148, passed 10/28/03.]

#### 23.01.04 Definitions

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

- a) "Auditor" means an independent third party auditor selected pursuant to section 23.01.10 of this chapter.
- b) "Carton" or "carton of cigarettes" means a carton of two hundred (200) cigarettes.
- c) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.
- d) "Cigarette Compact" means the Cigarette Tax Compact entered into by the Port Gamble S'Klallam Tribe and the State of Washington.
- e) "Court" means the Port Gamble S'Klallam Community Court, and includes the Port Gamble S'Klallam Court of Appeals.
- f) "Department" means the state of Washington Department of Revenue.
- g) "Essential government services" means services provided by the Tribe, including, but not limited to, Tribal administration, public facilities, fire, police, public health, education, job services, sewer, water, environmental and land use, transportation, utility services, and economic development., and as more fully defined in Part XIII, Section 8. of the Compact to wit:

"Essential Government Services" includes, but is not limited to: government services to provide and maintain infrastructure such as sidewalks, roads, and utilities; services such as fire protection and law enforcement; the costs of administering the Tribal Cigarette Tax stamp program under this Compact, including all deductions and exemptions similar to those available to retailers, Wholesalers and

others under State law, further including transportation vehicles and related costs; Tribal administration activities such as tax functions, contracting for health benefits, economic development, natural resources, and the provision of job services; and distribution of moneys related to trust funds, education, general assistance, such activities as land and building acquisitions, and building development and construction.

- h) "General fund" means the Port Gamble S'Klallam Tribe general fund.
- i) "Tribal Lands" means lands owned by the Tribe and held for the benefit of the Tribe.
- j) "Local retail sales tax" means the combined Washington local retail sales taxes applicable in the area.
- k) "NonIndian" means an individual who is neither a Tribal member nor a nonmember Indian.
- l) "Nonmember Indian" means an enrolled member of a federally recognized Indian Tribe other than the Port Gamble S'Klallam Tribe.
- m) "Person" means and includes any natural individual, company, partnership, firm, joint venture, association, corporation, estate, trust, political entity, or other identifiable entity.
- n) "Retail selling price" means the ordinary, customary, or usual price paid by the consumer for each package of cigarettes, which price includes the Tribal cigarette tax.
- o) "Self-certified tribal wholesaler" means a wholesaler who is a federally recognized Indian Tribe or a member of such a Tribe, who is not required to be licensed under any state law, and who has by letter certified to the Department that it will abide by the terms of the Cigarette Compact and who has signed a contract with the Tribe requiring it to abide by the terms of the Cigarette Compact.
- p) "Self-certified wholesaler" means an out-of-state wholesaler who is not a self-certified tribal wholesaler and who has by letter certified to the Department that it will abide by the terms of the Cigarette Compact and who has signed a contract with the Tribe requiring it to abide by the terms of the Cigarette Compact.
- q) "Port Gamble S'Klallam Indian Reservation" or "reservation" means the area recognized as the Port Gamble S'Klallam Indian Reservation by the United States Department of the Interior.
- r) "State" means the state of Washington.

- s) "Tobacco products" means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. "Tobacco product" does not include cigarettes.
- t) "Tribal cigarette tax" means the tax or taxes enacted as a provision of Tribal law on the units of cigarettes sold and on the purchase of cigarettes by retail buyers.
- u) "Tribal Council" means the Port Gamble S'Klallam Tribal Council.
- v) "Tribal member" means an enrolled member of the Port Gamble S'Klallam Tribe.
- w) "Tribal retailer" means a cigarette retailer wholly owned by the Port Gamble S'Klallam Tribe and located in Tribal Lands.
- x) "Tribal tax stamp" means the stamp or stamps that indicate the Port Gamble S'Klallam Tribal cigarette tax imposed under the Cigarette Compact is paid or that identify those cigarettes with respect to which no tax or another Tribal tax is imposed.
- y) "Tribe" or "Tribal" means or refers to the Port Gamble S'Klallam Tribe.
- z) "Wholesaler" means every person who purchases, sells, or distributes cigarettes for the purpose of resale only.

[HIST: Source - Resolution No. 03 A 148, passed 10/28/03.]

#### 23.01.05 Cigarette Compact with Washington State

The Tribe entered into a compact with the State of Washington regarding the sale and taxation of cigarettes in Tribal Lands (the "Cigarette Compact"). In accordance with the terms of the Cigarette Compact and during its term:

- a) The Tribe shall not engage in mail order type sales, such as internet, catalog, and telephone sales, to Washington residents outside of Tribal Lands, unless and until the State and the Tribe have entered into a memorandum of agreement in regard to the taxability of such sales.
- b) "Tribal retailer" refers to the Gliding Eagle Marketplace and the Point Casino and Hotel.

- 1) The Tribe will notify the Department thirty (30) days prior to the start up of cigarette sales by any other Tribal retailer.
  - 2) The Tribe will provide information regarding the status of land upon which any Tribal retailer is located at least thirty 30 days prior to the startup of any new cigarette sales by such retailer.
- c) Tribal retailers may purchase cigarettes for sale in Tribal Lands only from:
- 1) Wholesalers or manufacturers licensed to do business in the State of Washington;
  - 2) Self-certified wholesalers who meet the requirements of Part VI section 2 of the Cigarette Compact;
  - 3) Self-certified tribal wholesalers who meet the requirements of Part VI section 3 of the Cigarette Compact; and
  - 4) The Tribe or its enterprises as a Tribal manufacturer.
- d) All cigarettes sold by the Tribal retailer shall bear a Tribal tax stamp, including cigarettes subject to the Tribal cigarette tax, the Tribal member cigarette tax, or exempt from either of these taxes. The stamps shall be purchased and affixed in accordance with the terms of the Cigarette Compact.
- e) The Port Gamble S'Klallam Tribe, or its designee, shall notify the state Department of Revenue 72 hours in advance of all shipments of cigarettes by the self-certified wholesaler or self-certified tribal wholesaler to the Tribe or Tribal retailers. Such notice shall include who is making the shipment (meaning who is the wholesaler), detail regarding both quantity and brand, and the invoice order number.
- f) No person shall sell or give, or permit to be sold or given, cigarettes to any person under the age of 18. If a violation of this subsection 23.01.05(f) is reported to the Tribe:
- 1) The Tribe shall investigate the allegation; and
  - 2) When there is probable cause to believe a violation has occurred, cite the individual who is alleged to have made a sale or gift in violation of this subsection 23.01.05(f) for such violation and apply the following penalties to the individual:
    - i) Upon a first violation, a fine of \$250.00;
    - ii) Upon a second violation within any rolling one-year period, a fine of \$500.00;

- iii) Upon a third violation within any rolling one-year period, a fine of \$750.00;
  - iv) Upon a fourth violation within any rolling two-year period, a fine of \$1,000.00; and
  - v) Upon a fifth violation within any rolling two-year period, a fine of \$1,000.00 and termination from employment. Upon the fifth violation within any rolling two-year period, the individual shall no longer be permitted to make cigarette sales in Tribal Lands for a period of no less than one year.
- 3) It shall be no defense to a citation for a violation of this subsection 23.01.05(f) that the purchaser acted, or was believed by the defendant to act, as agent or representative of another.
  - 4) It shall be a defense to a citation for a violation of this subsection 23.01.05(f) that the person making a sale reasonably relied on officially issued identification that shows the purchaser's age and bears his or her signature and photograph.

[HIST: Source - Resolution No. 03 A 148, passed 10/28/03.]

#### 23.01.06 Cigarette Tax - Levy

- a) Beginning no later than the effective date of the Cigarette Compact, the Tribe shall impose taxes, pursuant to the terms of this section, on all sales by Tribal retailers of cigarettes to nonIndian and nonmember Indian purchasers within Tribal Lands.
- b) The Tribal tax rate shall be as follows:
  - 1) For the first 36 months ("phase-in period"), the tax rate shall equal no less than the sum of an amount equal to 80 percent of the State cigarette tax, which is expressed in cents per cigarette, plus an amount equal to 80 percent of the state and local retail sales taxes. This phase-in period may be reduced in accordance with subsection 23.01.06(c).
  - 2) No later than 36 months after the initial imposition of tax under this section 23.01.06(c) and subject to the phase-in period reduction under subsection 23.01.06(c) the Tribal tax rate shall be no less than the sum of an amount equal to 100 percent of the state cigarette tax, which is expressed in cents per cigarette, plus an amount equal to 100 percent of the state and local retail sales taxes.
- c) If during any quarter the number of cartons of cigarettes, excluding those manufactured by the Port Gamble S'Klallam Tribe or its enterprises, that are sold at retail exceeds by at least 10 percent the

quarterly average sales of the six months preceding the imposition of the Tribal cigarette tax, the 36-month phase-in period shall be reduced by three months. These reductions will be cumulative. The quarterly average sales baseline shall be determined by the Auditor. For the purposes of this provision:

- 1) "Quarter" means a three-month period, each quarter immediately succeeding the next. The first quarter begins the first day of the first month the Tribal cigarette tax is imposed, if the imposition of the tax is on or before the 15th of the month, or begins the first day of the second month the Tribal cigarette tax is imposed, if the imposition of the tax is after the 15th of the month; and
  - 2) The "quarterly average sales" means the sum of the retail sales made during the two quarters divided by two.
- d) During the term of the Cigarette Compact, upon any future increase in the state cigarette tax, state retail sales tax, or local retail sales tax, the Tribal tax on cigarettes shall increase by no less than 100 percent of the increase in the combined state and local tax rates; provided, however, that during the phase-in period the Tribal tax rate shall be set that it is at least equal to 80 percent of the then-current combined state cigarette tax and state and local sales tax.
- e) During the term of the Cigarette Compact, upon any future decrease in the state cigarette tax, state retail sales tax, or local retail sales tax, the Tribal tax on cigarettes may decrease to a minimum of no less than 100 percent of the combined state and local tax rates; provided, however, that during the phase-in period the Tribal tax rate shall be set that it is at least equal to 80 percent of the then-current combined state cigarette tax and state and local sales tax.
- f) The following sales shall not be subject to a general Tribal sales tax levy under other provision of Tribal law:
- 1) All cigarettes manufactured by the Port Gamble S'Klallam Tribe or its enterprises in Tribal Lands;
  - 2) All other cigarettes whenever a Tribal cigarette tax or Tribal member cigarette tax is imposed on those cigarettes during the term of a compact with the state of Washington.

[HIST: Source - Resolution No. 03 A 148, passed 10/28/03.]

#### 23.01.07 Cigarette Tax – Exemptions from – Other Taxes

The following shall not be subject to the cigarette tax levy:

- a) Sales of tobacco products;



- b) Sales of cigarettes to enrolled members of the Port Gamble S'Klallam Tribe. However, such sales are subject to a Tribal member cigarette tax, which shall be equal to the tax levied under section 23.01.06 on sales to nonIndians and nonmember Indians. The tax revenue from sales to enrolled members of the Port Gamble S'Klallam Tribe shall be exempt from the prohibition on subsidization in section 23.01.09.
- c) Sales of cigarettes manufactured by the Port Gamble S'Klallam Tribe or its enterprises within Tribal Lands.
- d) Mail order type sales of cigarettes, such as internet, catalog, and telephone sales, to purchasers outside of Tribal Lands and outside of Washington state.

[HIST: Source - Resolution No. 03 A 148, passed 10/28/03.]

#### 23.01.08 Cigarette Tax – Collection and Payment of

- a) Every person engaged in retail sales of cigarettes in Tribal Lands who is liable for collecting the Tribal cigarette tax levy or Tribal member cigarette tax levy, shall maintain accurate written records of the purchase, stamping, and retail sales of cigarettes, and shall make such records available for inspection by the Tribal finance officer and/or Auditor retained by the Tribe. Records shall be maintained for no less than three years after the audit is accepted by the appropriate federal oversight agency.
- b) All applicable taxes shall be paid prior to the sale, distribution, or transfer of possession of any cigarettes. During the term of the Cigarette Compact, the terms of the Cigarette Compact regarding the purchase, stamping, transportation and sale of cigarettes shall apply.
- c) Whenever cigarette taxes are paid by any person other than the consumer, user or possessor, that payment shall be considered a pre-collection of such taxes due. When the tax is prepaid by another, this amount is part of the selling price of the cigarette to the retail purchaser

[HIST: Source - Resolution No. 03 A 148, passed 10/28/03.]

#### 23.01.09 Cigarette Tax – Use of Tribal Levy

- a) Tribal cigarette tax revenue shall be used only for essential government services, and may not be used to subsidize Tribal cigarette and food retailers. For the purposes of this section, "subsidize" means that proceeds from the Tribal cigarette tax pursuant to the Cigarette Compact cannot be expended on the enterprise activities of the Tribal retail cigarette business. In addition, where the cigarette business is co-located with a retail food business, the proceeds cannot be expended to support that business.

- 1) "Enterprise activities" include paying wages, benefits, bonuses or expenses, related to the maintenance and operation of the retail facility or typically considered to be part of a business' operating expenses and overhead.
  - 2) "Non-enterprise activities" include, but are not limited to: government services to provide and maintain infrastructure such as sidewalks, roads, and utilities; services such as fire protection and law enforcement; the costs of administering deductions and exemptions similar to those available to retailers, wholesalers and others under state law; Tribal administration activities such as tax functions, contracting for health benefits, economic development, natural resources, and the provision of job services; and distribution of moneys related to trust funds, education, and general assistance.
- b) Tribal member cigarette tax revenue is not subject to the requirements of this section 23.01.09.

[HIST: Source - Resolution No. 03 A 148, passed 10/28/03.]

#### 23.01.10 Cigarette Tax - Audit

The Tribe shall retain a third-party independent auditor for the purposes of verifying compliance with the Cigarette Compact. The Auditor shall perform all work required under Part VIII of the Cigarette Compact.

[HIST: Source - Resolution No. 03 A 148, passed 10/28/03.]

#### 23.01.11 Prior Resolutions

Prior Tribal Council resolutions dealing with the levy of Tribal cigarette taxes are superseded by this chapter.

[HIST: Source - Resolution No. 03 A 148, passed 10/28/03.]

#### 23.01.12 Cigarette Sales Permitted

Tribal retailers are the only retail businesses authorized to sell cigarettes within Tribal Lands.

[HIST: Source - Resolution No. 03 A 148, passed 10/28/03.]

#### 23.01.13 Severability

If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances, is not affected.

[HIST: Source - Resolution No. 03 A 148, passed 10/28/03.]

## **Chapter 23.02 Tribal Hotel Room Occupancy Tax**

### 23.02.01 Authority

The authority of the Tribal Council of the Port Gamble S'Klallam Tribe to adopt this ordinance as codified in this title is found in the Constitution of the Port Gamble S'Klallam Tribe and in the inherent sovereignty of the Port Gamble S'Klallam Tribe to regulate its own territory and activities therein.

[HIST: Source - Resolution No. 16-A-095, passed 7/25/16. This Chapter was created to regulate the operation of motels, hotels, and other temporary lodging businesses within the Port Gamble S'Klallam Tribe's jurisdiction and to regulate taxes on room occupancy.]

### 23.02.02 Purpose

The Tribal Council of the Port Gamble S'Klallam Tribe finds that regulation of the operation of motels, hotels, and other temporary lodging businesses in the Tribe's Tribal Lands is essential to the health and welfare of the Port Gamble S'Klallam Tribe and its members. The Tribal Council further finds that a tax base is essential to the Tribe's ability to provide goods and services, and to finance government operations and economic development, for the safety, health and welfare of the Port Gamble S'Klallam Tribe, its members, and those who work on, live on, and visit the Tribe's Tribal Lands. Therefore, in the public interest and for the welfare of the people of the Port Gamble S'Klallam Tribe, its employees, the residents of and visitors to Tribal Lands, the Port Gamble S'Klallam Tribal Council, in the exercise of its authority under the Tribal Constitution, declares its purpose by the provisions of this chapter to regulate the operation of motels, hotels and other temporary lodging businesses and to impose, collect, and administer taxes on room occupancy.

[HIST: Source - Resolution No. 16-A-095, passed 7/25/16.]

### 23.02.03 Scope

- a) **Application.** This chapter shall apply to the full extent of the sovereign jurisdiction of the Port Gamble S'Klallam Tribe in Tribal Lands.
- b) **Compliance with this chapter is hereby made a condition of the use of any land or premises in Tribal Lands.**
- c) **Deemed to Consent.** Any person who resides, conducts business, engages in a business transaction, receives benefits from the Tribal government, including police, fire or emergency services, acts under Tribal authority, or enters the Tribal Lands under the jurisdiction of the Port Gamble S'Klallam Tribe, shall be deemed thereby to have consented to the following:

- 1) To be bound by the terms of this Chapter;
- 2) To the exercise of civil jurisdiction by the Port Gamble S'Klallam Tribal Court over said person in legal actions arising under this Chapter, and
- 3) To detention, service of summons and process, and search and seizure, in conjunction with legal actions arising under this Chapter.

[HIST: Source - Resolution No. 16-A-095, passed 7/25/16.]

#### 23.02.04 Definitions

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

- a) "Court" means the Port Gamble S'Klallam Tribal Court.
- b) "Essential government services" mean services provided by the Tribe including, but not limited to, Tribal administration, public facilities, fire, police, public health, education, elder care, social services, sewer, water, environmental and land use, transportation, utility services, community development, and economic development.
- c) "Occupancy" means the use or possession, or the right to the use or possession, of a motel, hotel, or other temporary lodging room.
- d) "Person" means and includes any natural individual, company, partnership, firm, joint venture, association, corporation, estate, trust, political entity, or other identifiable entity.
- e) "Room" means any room, space, or area of any kind in any part or portion of a motel, hotel or other temporary lodging facility let out for the use or possession of lodging or meeting purposes.
- f) "Room rental charge" means the actual amount charged for the rental of a motel, hotel, conference, or other temporary lodging room(s) before applicable taxes.
- g) "State" means the State of Washington.
- h) "Tribal Council" means the Port Gamble S'Klallam Tribal Council.
- i) "Tribal Lands" means land owned by the Tribe or held for the benefit of the Tribe.
- j) "Tribal member" means an enrolled member of the Port Gamble S'Klallam Tribe. "Tribe" or "Tribal" means or refers to the Port Gamble S'Klallam Tribe.

[HIST: Source - Resolution No. 16-A-095, passed 7/25/16.]

#### 23.02.05 Room Occupancy Tax

Beginning on August 1, 2016, the Tribe shall impose taxes, under the legal terms of this Chapter, on the rental of guest and conference rooms in motel, hotel, and other temporary lodging facilities located within the Tribe's Tribal Lands. The Tribal tax rate shall be ten (10) percent of the room rental charge.

[HIST: Source - Resolution No. 16-A-095, passed 7/25/16.]

#### 23.02.06 Room Occupancy Tax Exemptions

Tribal members are exempt from the Tribe's room occupancy tax when they provide proof of Tribal enrollment before they take possession of a room.

The Tribe, including its departments, entities, and wholly owned corporations, are exempt from the Tribe's room occupancy tax. The Tribe maintains the right to waive the hotel room occupancy tax at its discretion.

[HIST: Source - Resolution No. 16-A-095, passed 7/25/16. Resolution No. 17-A-012, passed 1/23/17 modified this section to include the Tribe and its entities from paying room occupancy tax and to allow the Tribe to waive the tax at its discretion.]

#### 23.02.07 Room Occupancy Tax—Collections and Payment

Every person engaged in the rental of motel, hotel, conference and other temporary lodging rooms in the Tribe's Tribal Lands who is liable for collecting the Tribal room occupancy tax levy shall maintain accurate written records of room rental charges and room occupancy taxes charged and received, and shall make such records available for inspection by the Tribal finance officer and/or third party auditor retained by the Tribe. Records shall be maintained for no less than three (3) years after the audit is accepted by the appropriate federal oversight agency.

[HIST: Source - Resolution No. 16-A-095, passed 7/25/16.]

#### 23.02.08 Room Occupancy Tax—Use of Tribal Levy

Tribal room occupancy tax revenue may be used for any services, programs, or other governmental activities of the Port Gamble S'Klallam Tribe.

[HIST: Source - Resolution No. 16-A-095, passed 7/25/16.]

23.02.09 Room Occupancy Tax—Audit

The Tribe may retain a third-party independent auditor for the purposes of verifying compliance with this Chapter.

[HIST: Source - Resolution No. 16-A-095, passed 7/25/16.]

23.02.10 Temporary Lodging Business—Permitted

The Port Gamble S’Klallam Tribe and its wholly owned enterprises are the only entities authorized to operate motels, hotels, or other temporary lodging businesses within the Tribe’s Tribal Lands.

[HIST: Source - Resolution No. 16-A-095, passed 7/25/16.]

23.02.11 Severability

If any provision of this Chapter, or its application to any person or circumstances is held invalid, the remainder of the Chapter, or the application of the provision to other persons or circumstances, is not affected.

[HIST: Source - Resolution No. 16-A-095, passed 7/25/16.]

## Chapter 23.03 Commercial Marijuana Activity

### 23.03.01 Title

This chapter shall be known as the “Port Gamble S’Klallam Tribe Commercial Marijuana Activity Ordinance.”

[HIST: Source - Resolution No. 17-A-058, passed 4/24/17. After serious deliberation, the Port Gamble S’Klallam Tribe has determined that present day circumstances, including the Washington State’s legalization of marijuana, make a complete ban of marijuana within Tribal Lands ineffective and unrealistic. This chapter was created to regulate legal commercial marijuana activity by the Tribe and any tribally owned entity.]

### 23.03.02 Definitions

As used in this chapter, the following words and phrases shall each have the designated meaning unless a different meaning is expressly provided or the context is clearly indicated.

- a) “Commercial Marijuana Activity” means all planting, growing, producing, cultivating, processing, and selling marijuana, marijuana concentrates, marijuana- infused products, and useable marijuana within the jurisdiction of the Port Gamble S’Klallam Tribe and in accordance with the Tribe’s laws that govern medical and recreational marijuana.
- b) “Designated Provider” shall have the same meaning as in RCW 69.51A.010.
- c) “Essential Government Services” means services provided by the Tribe including, but not limited to, administration, public facilities, fire, police, health, education, elder care, social services, sewer, water, environmental and land use, transportation, utility services, community development, and economic development.
- d) “Manager” means a person chosen or hired to manage, direct, or administer the every-day affairs of a business.
- e) “Marijuana,” “marijuana concentrates,” “marijuana-infused products,” and “useable marijuana” shall have the same meanings as in RCW 69.50.101 or any amendments thereto. Together, such terms shall be known as “Marijuana Products.”
- f) “Medical Marijuana Authorization Database” shall have the same meaning as in RCW 69.51A.010.

- g) “Qualifying Patient” shall have the same meaning as in RCW 69.51A.010.
- h) “Recognition Card” shall have the same meaning as in RCW 69.51A.010.
- i) “State” means the State of Washington.
- j) “State Licensed” means any entity licensed by the Washington State Liquor and Cannabis Board under RCW 69.50 or WAC 314-55, as amended.
- k) “Tribal Council” means the Port Gamble S’Klallam Tribal Council.
- l) “Tribal Enterprise” means any corporation or other business owned in whole or in part by the Tribe that is authorized to sell marijuana products under the Port Gamble S’Klallam Law and Order Code.
- m) “Tribal Member” means an enrolled member of the Port Gamble S’Klallam Tribe.
- n) “Tribe” means the Port Gamble S’Klallam Tribe.

[HIST: Source - Resolution No. 17-A-058, passed 4/24/17.]

### 23.03.03 Findings

- a) Historically, the production, possession, delivery, distribution, and sale of marijuana have been illegal across the United States and in Indian Country. In 2012, the voters of Washington State passed Initiative 502 (“I-502”) which sets forth a system allowing for the production, processing, and retail sale of Marijuana Products for recreational purposes within the State.
- b) After serious deliberation, the Tribe has determined that present day circumstances—including the State’s legalization of marijuana—make a complete ban of marijuana within Port Gamble S’Klallam Tribal Lands ineffective and unrealistic and the Tribe has decriminalized its sale and possession in very limited circumstances as set forth in Title 5 of the Tribe’s Law and Order Code.
- c) The Tribe also finds that, particularly considering the commercial marijuana activity occurring throughout the State, raising funds



through the sale of marijuana in Tribal Lands is a useful economic development opportunity.

d) The Tribe therefore enacts this chapter in an effort to strictly regulate and control the production, distribution, sale, and use of marijuana on Tribal Lands and to protect the health, safety, and general welfare of the Port Gamble S'Klallam Tribe and its visitors.

[HIST: Source - Resolution No. 17-A-058, passed 4/24/17.]

#### 23.03.04 Authorized Entities

The Port Gamble S'Klallam Tribe and any tribal enterprise designated by the Tribe to engage in the marijuana business are the only persons or entities authorized to manufacture, process, package, deliver, distribute, or sell marijuana. Additionally, the Tribe and any tribal enterprise are the only persons or entities authorized to possess marijuana in quantities in excess of the quantities identified under Section 23.03.05 of this chapter, and in RCW 69.50.360(3). This authorization exists solely to the extent provided under Chapter 23.03 of the tribal code and under RCW 69.50.360.

The Tribe and/or its Tribal Enterprises may sell marijuana products within the jurisdiction of the Port Gamble S'Klallam Tribe under both the PGST Tribal Code and the Tribe's Compact with the State of Washington. Tribal members and Tribal Member Businesses are prohibited from conducting retail sales of marijuana products.

[HIST: Source - Resolution No. 17-A-058, passed 4/24/17.]

#### 23.03.05 Permitted Acts

The following acts, when performed by a tribal enterprise or by its employee in compliance with Tribal Law, shall not constitute criminal or civil offenses under Tribal law:

- a) Purchase and receipt of useable marijuana, marijuana concentrates, or marijuana-infused products that have been properly packaged and labeled from a tribal enterprise or a state-licensed producer or processor;
- b) Possession of useable marijuana, marijuana concentrates, or marijuana-infused products;

- c) Delivery, distribution, and sale of any combination of the following amounts of useable marijuana, marijuana concentrates, or marijuana-infused product to any person twenty-one (21) years of age or older:
  - 1) One ounce of usable marijuana;
  - 2) Sixteen (16) ounces of marijuana-infused product in solid form;
  - 3) Seventy-two (72) ounces of marijuana-infused product in liquid form; or
  - 4) Seven (7) grams of marijuana concentrates.
- d) Delivery, distribution, and sale of any combination of the following amounts of useable marijuana, marijuana concentrates, or marijuana-infused product to a qualifying patient or his or her designated provider, as those terms are defined under chapter 69.51A RCW, if the patient or provider is in possession of a valid authorization and recognition card, as defined under RCW 69.51A.010, and the patient is recorded in that database established under Section 21 of Chapter 70, Laws of 2015, Washington State (2SSB 5052):
  - 1) Forty-eight (48) ounces of marijuana-infused product in solid form;
  - 2) Three (3) ounces of useable marijuana;
  - 3) Two hundred sixteen (216) ounces of marijuana-infused product in liquid form; or
  - 4) Twenty-one (21) grams of marijuana concentrates.
- e) Producing, processing, packaging, and labeling marijuana, usable marijuana, and marijuana-infused products; and
- f) Delivery, distribution, and sale of useable marijuana or marijuana-infused products to an enterprise of the Tribe or to state licensed producers, processors, or retailers.

[HIST: Source - Resolution No. 17-A-058, passed 4/24/17.]

### 23.03.06 Tracking

Any tribal enterprise of the Port Gamble S'Klallam Tribe shall employ reasonable and effective inventory methods that allow marijuana to be tracked from seed to sale.

All tribal enterprises of the Port Gamble S'Klallam Tribe will input all Marijuana Products purchased from State Licensees into the State's tracking system within 24 hours of delivery.

[HIST: Source - Resolution No. 17-A-058, passed 4/24/17.]

### 23.03.07 Quality Assurance Tests

All enterprises of the Port Gamble S'Klallam Tribe engaged in the production or processing of marijuana shall employ third party laboratories to conduct quality assurance tests consistent with those specified under WAC 314-55-102 or successor regulations.

[HIST: Source - Resolution No. 17-A-058, passed 4/24/17.]

### 23.03.08 Security Procedures

All enterprises of the Port Gamble S'Klallam Tribe shall employ reasonable and effective security procedures and systems that safeguard marijuana from theft and diversion, including marijuana intended for destruction as waste.

[HIST: Source - Resolution No. 17-A-058, passed 4/24/17.]

### 23.03.09 Prohibited Sales—Location

Marijuana products may not be sold or advertised within, on, or within one thousand (1,000) feet of, the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or a skate park or within one hundred (100) feet of a public or private youth center, public swimming pool, or video arcade facility, or a church building or other building designated as a place of worship.

For the purposes of this section:

- a) The term "playground" means any outdoor facility (including any parking lot next to the playground) that is intended for recreation purposes, that is open to the public, and that has at least 2 separate structures that are intended for the recreation of children including, but not limited to, sliding boards, swing-sets, and teeterboards.
- b) The term "youth center" means any recreational facility and/or gymnasium (including any parking lot next to the center), that is

intended primarily for use by persons under eighteen (18) years of age, which regularly provides athletic, civic, or cultural activities.

c) The term "video arcade facility" means any facility, legally accessible to persons under eighteen (18) years of age, that is intended primarily for the use of pinball and video machines for amusement containing a minimum of ten (10) pinball and /or video machines.

d) The term "swimming pool" includes the pool area, any buildings, and any parking lot next to the pool building(s).

[HIST: Source - Resolution No. 17-A-058, passed 4/24/17.]

### 23.03.10 Advertising

Usable marijuana, marijuana concentrates, or marijuana-infused products sold within the jurisdiction of the Port Gamble S'Klallam Tribe may not contain any statement, or illustration that:

- a) Is false or misleading;
- b) Promotes consumption;
- c) Represents the use of marijuana as having curative or therapeutic effects;
- d) Depicts a child or other person under legal age consuming marijuana, or includes:
  - 1) Objects, such as toys, characters, or cartoon characters suggesting the presence of a child, or any other depiction designed in any manner to be especially appealing to children or other persons under legal age to consume marijuana; or
  - 2) Is designed in any manner that would be especially appealing to children or other persons under twenty-one (21) years of age.

All advertising must contain the following warnings:

- a) "This product has intoxicating effects and may be habit forming";
- b) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug";
- c) "There may be health risks associated with consumption of this product"; and

- d) "For use only by adults twenty-one and older. Keep out of the reach of children."

All advertising outside of the Port Gamble S'Klallam Tribe's jurisdiction must comply with RCW 69.50 and WAC 314-55.

[HIST: Source - Resolution No. 17-A-058, passed 4/24/17.]

### 23.03.11 Warnings Included with Marijuana Products

a) Marijuana Products sold at retail must include accompanying material that contains the following warnings that state:

- 1) "There may be health risks associated with consumption of this product";
- 2) "Should not be used by women who are pregnant or breast feeding";
- 3) "For use only by adults twenty-one and older. Keep out of reach of children";
- 4) "Marijuana and products containing marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug"; and
- 5) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production and processing.

b) In addition to the above warnings in subsection (a), usable marijuana sold at retail must also include accompanying material that contains the following warning that states:

"Warning: This product has intoxicating effects and may be habit forming. Smoking is hazardous to your health."

In addition to the above warnings in subsection (a), marijuana concentrates and marijuana-infused products sold at retail must also include accompanying material that contains the following warnings that state:

- 1) "This product is infused with marijuana or active compounds of marijuana";
- 2) "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours"; and

- 3) Statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that are added to the extract.

[HIST: Source - Resolution No. 17-A-058, passed 4/24/17.]

### 23.03.12 Labels Affixed to Marijuana Products

a) Labels affixed to the container or package containing Marijuana Products sold at retail must include:

- 1) The business or trade name and Washington state unified business identifier number of the licensees that produced, processed, and sold the useable marijuana, or, if grown or processed within the Port Gamble S'Klallam Tribe's jurisdiction by a tribal enterprise, a statement to that effect;
- 2) Inventory ID number;
- 3) Date manufactured or date of harvest;
- 4) Warnings that state: "This product has intoxicating effects and may be habit forming"; and
- 5) Statement that "This product may be unlawful in some jurisdictions" or a comparable statement.

b) In addition to the above statements listed in subsection (a), labels affixed to the container or package containing useable marijuana sold at retail must include:

- 1) Concentration of THC, THCA, CBD, including a total of active cannabinoids (potency profile); and
- 2) Net weight in ounces and grams or volume as appropriate.

c) In addition to the above statements listed in subsection (a), labels affixed to the container or package containing marijuana-infused products sold at retail must include:

- 1) Best by date;
- 2) For products meant to be eaten or swallowed, recommended serving size and the number of servings contained within the unit, including total milligrams of active tetrahydrocannabinol (THC), or Delta 9;
- 3) Net weight in ounces and grams, or volume as appropriate;

- 4) List of all ingredients and any allergens;
  - 5) Warning statement that "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours"; and
  - 6) If a marijuana extract was added to the product, disclosure of the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract.
- d) In addition to the above statements listed in subsection (a), labels affixed to the container or package containing marijuana concentrates sold at retail must include:
- 1) Best by date;
  - 2) Net weight in ounces and grams, or volume as appropriate;
  - 3) If a marijuana extract was added to the product, disclosure of the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract;
  - 4) Concentration of THC (total Delta 9 and Delta 9 THC-A) and CBD;

[HIST: Source - Resolution No. 17-A-058, passed 4/24/17.]

### 23.03.13 Additional Requirements of Authorized Entities

- a) Minors. Authorizes enterprises of the Port Gamble S'Klallam Tribe that engage in Commercial Marijuana Activity shall not employ any persons under 21 years of age. Additionally, no enterprise shall allow any person under 21 years of age to enter a tribal facility that is engaged in Commercial Marijuana Activity.
- b) Producing. Production facilities may be located indoors or outdoors, provided that they are fully secure, have physical barriers, and meet Tribal and State safety and security protocols.
- c) Food Handler's Permit. All tribal employees who work in the manufacturing, production, packaging, processing, delivery, sale, and distribution of marijuana must obtain a Washington State Food Handler's Permit before beginning employment.
- d) Packaging. All marijuana-infused products meant to be eaten, swallowed, or inhaled must be packaged in child-proof packaging.

e) Records. Enterprises of the Port Gamble S'Klallam Tribe that engage in Commercial Marijuana Activity shall develop policies and procedures governing records to be maintained, security requirements, maximum quantities on premises, transport and delivery, and other matters related to the marijuana business.

[HIST: Source - Resolution No. 17-A-058, passed 4/24/17.]

#### 23.03.14 Retail Sales

Acceptable identification for proof of age includes: Driver's license, ID card, or Instruction Permit issued by any U.S. state or Canadian province; Washington temporary driver's license; Tribal enrollment card; passport from any nation; U.S. Military ID; or Merchant Marine card issued by U.S. Coast Guard.

The Tribe may conduct its own compliance checks in Tribal Land using minors ages 18, 19, or 20 through the Port Gamble S'Klallam Tribal Police Department or other authorized agency in accordance with Tribal regulations and policies. No criminal action may be taken against any minor who purchases marijuana as part of such a compliance check.

[HIST: Source - Resolution No. 17-A-058, passed 4/24/17.]

#### 23.03.15 Manager Background Investigations

Port Gamble S'Klallam Tribal enterprises that engage in Commercial Marijuana Activity shall require any person employed as a manager by such an enterprise to undergo a background investigation before he or she begins employment. The board of directors, or other managing body of the enterprise, will be responsible for ensuring that a background investigation on the manager's suitability is done. No such manager may have been convicted of, or entered a plea of guilty or no contest to, any of the following criminal offenses:

- 1) Any felony in the proceeding 10 years; and
- 2) Any crime involving dishonesty within the preceding ten (10) years, including, not exclusively: fraud; forgery; possession of a forgery device; theft; counterfeiting; embezzlement; making a false representation; obstruction of justice; intent to defraud; bribery; mail fraud; perjury; willful tax evasion; attempt, aiding and abetting a crime, or being an accessory, and/or involved in a conspiracy of a crime.

[HIST: Source - Resolution No. 17-A-058, passed 4/24/17.]



### 23.03.16 Indemnity

The Tribe shall indemnify any Tribal Council member, board member, manager, employee of the Tribe, or employee of a tribal enterprise, who is made party to a proceeding because of their role in Commercial Marijuana Activity against personal liability incurred in a proceeding if:

- a) The individual acted in his or her official capacity;
- b) The individual acted in good faith;
- c) The individual believed his or her conduct was in the best interests of the Tribe; and
- d) The individual acted in accordance with the laws, regulations, and policies of the Tribe and/or an enterprise of the Tribe.

[HIST: Source - Resolution No. 17-A-058, passed 4/24/17.]

### 23.03.17 Tribal Marijuana Tax

- a) There shall be a Tribal marijuana tax levied on all Commercial Marijuana Activity. The Tribal marijuana tax shall be equal to 100 percent of the Washington State Tax.
- b) The Tribal marijuana tax shall be remitted to the Tribe on a quarterly basis.
- c) The Tribe will use the proceeds of such tax for essential government services.
- d) No other tax besides the Tribal marijuana tax may be imposed on Commercial Marijuana Activity.
- e) The Tribe may allow an exemption from the Tribal marijuana tax in the following circumstances:
  - 1) For sales on marijuana grown, produced, or processed within Tribal Lands;
  - 2) For sales to the Tribe, to an enterprise of the Tribe, or to Tribal Members where the sale occurs within the jurisdiction of the Tribe;
  - 3) For activities that would otherwise be exempt under state or federal law; and

4) For medical marijuana products used in the course of medical treatments by a clinic, hospital, or similar facility owned and operated by the Tribe within the Tribe's jurisdiction.

[HIST: Source - Resolution No. 17-A-058, passed 4/24/17.]

**Exhibit B**

**Retail Location Legal Description**

**Exhibit B**

**Legal Description**

**Port Gamble S’Klallam Tribe**

**Retail Marijuana Operations**

The Southeast Quarter of the South Half of the East Half of the Southeast Quarter of Section 9,  
Township 29 North, Range 2 East, Willamette Meridian.

Except the South 60 feet and the East 30 feet therefrom for roads.

Situate in the County of Kitsap, State of Washington.

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CRIMINAL CODE

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TITLE 5

CRIMINAL CODE

Chapter 5.01 Offenses Against the Person

5.01.01 Assault

a) Assault in the First Degree:

Any person who:

- 1) Intentionally causes or attempts to cause serious bodily harm to another person; or
- 2) Causes, attempts to cause, or threatens bodily harm to another person with a firearm or any deadly weapon or with any force or means likely to produce death; or
- 3) Knowingly causes, attempts to cause, or threatens bodily harm to any person carrying out a government function;

shall be guilty of a Class A offense.

b) Assault in the Second Degree:

Any person who, under circumstances not amounting to assault in the first degree:

- 1) Knowingly and purposely strikes another person or otherwise inflicts bodily harm; or
- 2) Threatens another person with, or purposely puts another person in fear of, immediate serious bodily harm;

shall be guilty of a Class B offense.

c) Assault in the Third Degree

Any person who, under circumstances not amounting to assault in the first or second degree:

- 1) Intentionally attempts or threatens to inflict bodily harm on another person through unlawful force or violence; or
- 2) Without consent, and with non-deadly means, inflicts bodily harm; or
- 3) Knowingly or purposely makes physical contact of an insulting or provoking nature with an individual; or
- 4) Threatens violence and causes another person to self-harm; or
- 5) Knowingly or purposely causes reasonable apprehension and fear of bodily harm even though the infliction of bodily harm was not actually intended;



shall be guilty of a Class C offense.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section to increase maximum penalty. The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05. The crimes of assault and battery were combined. Amended by Resolution No. 15-A-068, passed 6/8/15, to divide assault into degrees.]

#### 5.01.02 Battery REPEALED

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section slightly and dropping "Assault" from the name of the crime. The mandatory pre-sentence evaluation was passed 6/14/88. Repealed by Resolution 05-A-054, passed 6/14/05.]

#### 5.01.03 Intimidation

Any person who threatens another with intent to coerce the other person to act against his will, shall be guilty of a Class D offense.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84. The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05.]

#### 5.01.04 Robbery

Any person who unlawfully takes personal property a) from the person of another or in his presence, b) against his will, c) by threat of injury to the person or his property, shall be guilty of a Class B offense.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84. The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05.]

#### 5.01.05 Criminal Homicide

Any person who knowingly, recklessly, or negligently causes the death of another human being shall be guilty of a Class A offense.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84. The mandatory pre-sentence evaluation was passed 6/14/88. . by Resolution 05-A-054, passed 6/14/05.]

#### 5.01.06 Vehicular Homicide

Any person who causes the death of another by operating a motor vehicle while under the influence of an alcoholic beverage or drug to a degree which affects his or her safe operation of a vehicle shall be guilty of a Class A offense.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84. Amended by Resolution 05-A-054, passed 6/14/05.]

5.01.07 Reckless Endangerment

Any person who recklessly engages in conduct, which creates substantial risk of death or serious physical injury to another, shall be guilty of a Class C offense.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84. The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05.]

5.01.08 Rape—REPEALED

[HIST: Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section to define the crime and expand the scope from "attempted rape" to "rape". The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05. The definition of sexual intercourse was added. Repealed and replaced with Rape in First, Second, and Third Degree (Sections 5.07.04, 5.07.05, and 5.07.06) Resolution No. 17-A-010, passed 1/23/17.]

5.01.09 Indecent Liberties—REPEALED

[HIST: Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section to more clearly define the crime. The mandatory pre-sentence evaluation was passed 6/14/88. Passed 1/17/86 amended this section for clarity in definition. Amended by Resolution 05-A-054, passed 6/14/05, adding the definition for sexual contact. Repealed and replaced with Public Indecency, Section 5.07.12, Resolution No. 17-A-010, passed 1/23/17.]

5.01.10 Abduction

Any person who willfully takes away or detains another person against his will or without the consent of the parent or other person having lawful care or charge of him shall be guilty of a Class A offense.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/88 amended this section, deleted the "under eighteen" language to include cases such as guardianship where persons over eighteen are still under legal care of another. The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05.]

5.01.11 Endangering the Welfare of a Child

Any person who knowingly endangers the welfare of a child by violating a duty of care, protection or support, or by intentionally leaving the child without adequate or care by otherwise neglecting to care for the child in any manner which threatens serious harm to the physical or emotional well being of the child shall be guilty of a Class B offense.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84. The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05 which added "without adequate" to allow prosecution when leaving a child with a person who cannot or will not adequately care for the child.]

#### 5.01.12 Contributing to the Criminal Act of a Minor

Any person who, by act or omission, knowingly encourages, causes or contributes to the criminal act of a person under 18 years of age shall be guilty of a Class C offense.

[HIST: Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/88 amended this section deleting references to state and federal jurisdiction and expanding the definition. The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05.]

#### 5.01.13 Attempted Suicide REPEALED

[HIST: Source - Resolution No. 84 A 03, passed 2/14/88. This section is intended to reflect the Port Gamble S'Klallam Tribe's concern for the safety and well being of its members and is not intended to be punitive. The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05. Repealed by Resolution 14 A 047, passed 3/25/14.]

[Cross Reference: Chapter 16.09 addresses Attempted Suicide.]

#### 5.01.14 Stalking

A person commits the offense of stalking if he or she a) repeatedly follows another person and engages in conduct that the stalker knows or should know would cause fear in the person at whom the conduct is directed or b) engages in a course of conduct over a period of time that causes another person substantial emotional distress and the conduct serves no legitimate purpose.

Stalking is a Class C offense. In addition to the penalties for a Class C offense, the Court shall order a mental health evaluation with a qualified counselor and may impose any treatment recommended as part of the sentence.

[HIST: Source - Resolution No. 02 A 108, passed 12/17/02 adopted this section. Amended by Resolution 05-A-054, passed 6/14/05.]

#### 5.01.15 Interference with the Reporting of Domestic Violence

Any person who prevents or attempts to prevent a victim or witness to domestic violence from calling 911, obtaining medical assistance, or making a report to any law enforcement official shall be guilty of a Class C offense.

[HIST: Source - Resolution No. 02 A 108, passed 12/17/02 adopted this section. Amended by Resolution 05-A-054, passed 6/14/05.]

[Cross Reference: Section 16.06.02, defines "Domestic Violence."]

#### 5.01.16 Harassment

It is unlawful for any person, with intent to intimidate, threaten, harass, annoy or offend, or with knowledge that the person is harassing another person, to:

- a) Subject another person to intimidating, taunting, insulting, berating, humiliating, offensive, threatening, obscene or violent language and/or conduct;
- b) Make any request, suggestion or proposal which is obscene or indecent;
- c) Subject the other person to offensive physical contact or cause the other person to reasonably believe that he/she intends to cause bodily injury to the recipient or another or damage to the property of the recipient or another;
- d) Follow another person in or about a public place for no legitimate purpose after being asked to desist, and/or
- e) Anonymously or otherwise contact or communicate with another person by verbal, electronic, mechanical, telegraphic or written means, repeatedly and at extremely inconvenient hours, or after being advised by the person that the communication is unwelcome, in a manner that reasonably would be expected to cause a person substantial emotional distress.

Harassment is a Class C offense.

[HIST: Source - Resolution No. 02 A 108, passed 12/17/02 adopted this section. Amended by Resolution 05-A-054, passed 6/14/05. Amended by Resolution 10-A-063 to expand the definition of harassment.]

[Cross Reference: Section 16.06.02, defines "Domestic Violence."]

#### 5.01.17 Exploitation of Vulnerable Adult

Any person who, a) obtains or uses a vulnerable adult's property, food, telephone service, utility services, residence, land assignment, vehicles, money or other resources without permission or by unreasonable imposition, or b) resides with a vulnerable adult or who is a regular caregiver of a vulnerable adult and who, by action or inaction, threatens or harms the health or well being of the vulnerable adult, shall be guilty of a Class C offense.

Vulnerable Adult shall be defined as an elder over the age of 55 and a person 18 years of age or older who does not have the functional, mental, emotional or physical ability to protect and care for himself or herself.

[HIST: Source - Adopted by Resolution 05-A-054, passed 6/14/05.]

## Chapter 5.02 Property Related Offenses

### 5.02.01 Trespass

Any person who, without lawful authority, enters passes over, remains on or goes upon the land assignment of another person the leased property of another person, or property owned by or held for the benefit of the Tribe, shall be guilty of a Class D offense.

[HIST: Source - Resolution No. 02 A 108, passed 12/17/02 amended this section. Port Gamble S'Klallam Law and Order Code. Amended by Resolution 05-A-054, passed 6/14/05.]

[Cross Reference: Chapter 10.01 Land Assignment.]

### 5.02.02 Vandalism/Unauthorized Use

Any person who uses, injures or destroys public or private property of any kind, not his own, with malice or without authority shall be guilty of a Class C offense.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section to simplify and consolidate wording. Amended by Resolution 05-A-054, passed 6/14/05.]

### 5.02.03 Burglary

Any person who enters or remains unlawfully in any building, structure or vehicle with intent to commit an offense there shall be guilty of an offense. In any prosecution for burglary, intent to commit an offense may be inferred from entering or remaining unless it can be explained by sufficient evidence to the trier of fact to have been made without criminal intent. Burglary is a Class C offense.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84. Amended by Resolution 05-A-054, passed 6/14/05.]

### 5.02.04 Theft

a) Definition. "Theft" means:

- 1) To knowingly and purposely obtain or exert unauthorized control, including by threat or deception, over the property or services of another with intent to deprive the owner of such property or services; or
- 2) To appropriate lost or mis-delivered property or services of another with intent to deprive the owner of such property or services; or
- 3) To obtain control over stolen property knowing that the property was stolen.

b) Theft – First Degree. Any person who commits theft:

- 1) Of property or services that exceeds one thousand and five hundred dollars (\$1,500) in value; or
- 2) Of property
- 3) Of property of any value taken from another person;

shall be guilty of a Class A offense.

c) Theft – Second Degree. Any person who commits theft:

- 1) Of property or services that exceeds two hundred and fifty dollars (\$250) in value but does not exceed one thousand and five hundred dollars (\$1,500) in value; or
- 2) Of a credit or debit card;

shall be guilty of a Class B offense.

d) Theft – Third Degree. Any person who commits theft:

- 1) Of property or services that does not exceed two hundred and fifty dollars (\$250) in value;

shall be guilty of a Class C offense.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section to cover theft of services. Amended by Resolution 05-A-054, passed 6/14/05. Amended by Resolution 16-A-098, passed 7/25/16, to divide Theft into degrees.]

#### 5.02.05 Receiving Stolen Property

Any person who possesses, receives, or conceals, or aids in receiving or concealing property, knowing it to be obtained by any unlawful means shall be guilty of a Class C offense

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A -03, passed 2/14/84 amended this section for clarity. Amended by Resolution 05-A-054, passed 6/14/05.]

#### 5.02.06 Unlawful Dumping

Any person who leaves refuse, construction debris, garbage, or any other discards at any place other than designated garbage disposal sites on the Port Gamble S'Klallam Reservation without authorization from the Tribal Council shall be guilty of a Class C offense.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amended by Resolution 05-A-054, passed 6/14/05 which repealed the littering component.]

5.02.07 Maintaining a Public Nuisance

Any person whose property is in a condition which endangers the safety, health, comfort or property of his neighbor shall be guilty of a Class C offense and the Court shall require the person to eliminate the nuisance.

In the event the defendant fails to comply with this order within a reasonable time, the Port Gamble S'Klallam Tribal Council may contract for the removal of the nuisance and the expense of the contract shall become an additional portion of the sentence.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended the sentencing portion of this section. Amended by Resolution 05-A-054, passed 6/14/05.]

5.02.08 Arson

Any person who knowingly causes a fire or explosion on his own property or that of another and thereby places the person or the property of another or the Tribe in danger of damage or destruction or causes damage or destruction to the person or property of another or the Tribe shall be guilty of a Class B offense.

Any person who recklessly causes a fire or explosion on his own property or that of another and thereby places the person or the property of another or the Tribe in danger of damage or destruction or causes damage or destruction to the person or property of another or the Tribe shall be guilty of a Class C offense.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84. Amended by Resolution 05-A-054, passed 6/14/05. Amended by Resolution 12-A-057, passed 4/24/12.]

5.02.09 Forgery

Any person who signs, executes, alters or falsifies any written documents, checks, currency or written instrument with intent to defraud shall be guilty of a Class B offense.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section to expand the "written instrument" language and reorganize for clarity. Amended by Resolution 05-A-054, passed 6/14/05.]

5.02.10 Fraud

Any person who obtains money or other property by deceit, willful misrepresentation or false interpretation shall be guilty of a Class B offense.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section omitting the "false weights and

measures" language and reorganizing the section for clarity. Amended by Resolution 05-A-054, passed 6/14/05.]

#### 5.02.11 Extortion

Any person who knowingly obtains or attempts to obtain property or services of another by threat or coercion shall be guilty of a Class B offense.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section to simplify wording and define the crime. Amended by Resolution 05-A-054, passed 6/14/05.]

### **Chapter 5.03 Controlled Substances**

#### 5.03.01 Definitions

All terms used in this chapter shall have their commonly accepted meaning. If there is a doubt as to the meaning of a term, the Court shall be guided by the definitions of the Washington State Uniform Controlled Substances Act, RCW 69.50.101. RCW 69.50.101 as it currently exists or is hereafter amended is incorporated by reference into this Chapter, to be referred to as indicated in this Chapter.

[HIST: Source - Resolution No. 17-A-064, passed 6/12/17. This new chapter Controlled Substances replaced the previous chapter Alcohol and Drug Related Offenses. This chapter covers drug offenses, and alcohol offenses are in a separate chapter. After serious deliberation, the Port Gamble S'Klallam Tribe has determined that present day circumstances, including the Washington State's legalization of marijuana, make a complete ban of marijuana within Tribal Lands ineffective and unrealistic, and the Tribe has decriminalized its possession in very limited circumstances set out in this Chapter. Where there is a question regarding marijuana or the legality of a controlled substance in this chapter, reference may be made to the Revised Code of Washington State, with the exception that no individual may legally grow marijuana in his or her domicile for any purpose—medical or other.]

#### 5.03.02 Substances Illegal Without a Valid Prescription

Any substance that contains any quantity of a chemical that falls within the following categories is illegal to possess without a valid prescription. The full list of chemicals contained within these categories can be found in sections of the RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, and 69.50.212 (Schedules I, II, III, IV, and V respectively) of the Washington State Uniform Controlled Substances Act. These sections as they currently exist or are hereafter amended are incorporated by reference into this Chapter, to be referred to as indicated in this Chapter. If there is any doubt as to whether a substance is illegal or not, the Court shall be guided by the provisions of the Washington State Uniform Controlled Substances Act, Chapter 69.50. Illegal substances include:

(a) Opiates, including but not limited to substances commonly known as opium, heroin, morphine, methadone, and codeine;



(b) Hallucinogenic substances, including but not limited to substances commonly known as DMA, LSD, PCP, mescaline, psilocybin, but excluding marijuana;

(c) Cocaine in any form, including but not limited to the powder and the rock or “crack” form;

(d) Depressants, including but not limited to methaqualone, diazepam (Valium), secobarbital, and pentobarbital; and

(e) Stimulants, including but not limited to any form of amphetamine.

The chemical composition of a substance may be proved by any acceptable method of identification, including but not limited to identification by a trained law enforcement officer (included canine units), by field tests, or by laboratory tests.

[HIST: Source – Originally, this section was titled Possession of Narcotics or Controlled Substances and cited to the Federal 21 CFR 1308.11-15. Resolution No. 17-A-064, passed 6/12/17 created a new chapter for controlled substances and amended this section to remove the citation to the Federal law and instead cite to the Washington State Uniform Controlled Substances Act due to the Tribe’s legalization of marijuana.]

### 5.03.03 Marijuana Possession and Use

a) The possession, by a person twenty-one (21) years or older, of useable marijuana, marijuana concentrates, or marijuana infused products in amounts that do not exceed those set forth in Section 23.03.05 [Commercial Marijuana Activity, Permitted Acts] of this code and in RCW 69.50.360(3) is not a violation of this section, this title, or any other provision of Tribal law.

b) The Tribe shall assert no violation of any lease, sublease, or similar instrument based on a tenant's actions in compliance with this chapter. The Tribe has discretion to create any lease, sublease, or similar instrument that explicitly references this chapter and states an intent to prohibit tenant conduct that is otherwise permitted by this chapter.

c) Any person 21 years of age or older who possesses more than the limits authorized in this section or who possesses any marijuana plants shall be guilty of a Misdemeanor 1.

d) Any person under the age of 21 years, but at least 18 years old, who possesses, purchases, consumes, obtains or sells marijuana shall be guilty of a Misdemeanor 1, unless the person is a qualifying patient with a valid recognition card and possesses only amounts consistent with his or her authorization and no more than the limits set forth in RCW 69.51A.210. At sentencing, the Judge shall order the defendant to complete a mandatory

substance abuse assessment.

e) Any person under 18 years old who possess, purchases, consumes, obtains, or sells marijuana shall be guilty of a Misdemeanor 2, unless the person is a qualifying patient with a valid recognition card and possesses only amounts consistent with his or her authorization and no more than the limits set forth in RCW 69.51A.210. At hearing, the Judge shall order the defendant to complete a mandatory substance abuse assessment, and the Judge may order one or more of the following to take the place of the sentence requirements under a Misdemeanor 2:

- 1) Zero to thirty (30) days of confinement;
- 2) Zero to twelve (12) months of probation;
- 3) Zero to one hundred fifty (150) hours of community service;
- 4) A fine not to exceed five hundred dollars (\$500); or
- 5) A drug treatment alternative approved by the Port Gamble S'Klallam Court.

If the minor completes all the sentencing requirements, the Judge may dismiss the Misdemeanor 2 charge.

f) Notwithstanding any other provision in this chapter, or in any provision of the laws of the State of Washington, including without limitation RCW 69.51A, no person, regardless of status as a qualifying patient under RCW 69.51A, may plant, grow, produce, cultivate, or process marijuana in any form, including all forms defined in Section 5.03.01, in his or her domicile or anywhere within the boundaries of the Port Gamble S'Klallam Reservation or on any tribal lands. The penalty for any violation of this subsection is covered in Sub-Section 5.03.04(a) of Marijuana Production, Processing, and Sale.

g) Unless the Port Gamble S'Klallam Tribe authorizes by resolution or other tribal law, a person cannot use marijuana in any public place, or possess marijuana within public view within the jurisdiction of the Port Gamble S'Klallam Tribe. Public view includes, but is not limited to: carrying marijuana on the body of a person where it is visible to the public, in an open bag, sticking out of a shirt or pants pocket, etc. Public places include, but are not limited to: tribal government offices, tribal businesses and enterprises (except for those authorized to sell marijuana), tribal schools, tribal parking lots, tribal government vehicles, tribally-owned open spaces such as all beaches, and tribal medical clinics. Any violation of this subsection shall constitute a civil infraction punishable by a fine not to exceed fifty dollars (\$50).

[HIST: Source - Resolution No. 17-A-064, passed 6/12/17. At the Tribal Council meeting on June 12, 2017, Council heard a public comment on the issue of individual tribal members growing marijuana for medical purposes. The Council passed the resolution but also decided to deviate from Washington State law and make it illegal for any individual on the reservation to grow marijuana regardless of having a WA State medical marijuana recognition card. The code was published with this change incorporated on July 18, 2017.]

#### 5.03.04 Marijuana Production, Processing, and Sale

a) No person may plant, grow, produce, cultivate, or process marijuana in any form, including all forms defined in Section 5.03.01 Definitions, within the boundaries of the Port Gamble S'Klallam Reservation or on any tribal lands. The penalty for violations of this subsection are as follows:

1) A person who plants, grows, produces, cultivates, or processes six (6) or fewer marijuana plants shall be guilty of a Misdemeanor 2.

2) A person who plants, grows, produces, cultivates, or processes between seven (7) and fifteen (15) marijuana plants shall be guilty of a Misdemeanor 1.

3) A person who plants, grows, produces, cultivates, or processes over fifteen (15) marijuana plants shall be guilty of a Felony 2.

b) No person may sell marijuana, marijuana concentrates, marijuana-infused products, or useable marijuana within the boundaries of the Port Gamble S'Klallam Reservation or on any tribal lands.

Any violation of this subsection is a Felony 2.

The prohibitions contained in this section and in Section 5.03.03 do not apply to commercial marijuana activity authorized by the Tribal Code in Chapter 23.03, provided that such commercial marijuana activity is conducted in accordance with the Tribal Code.

The prohibitions contained in this section and in Section 5.03.03 do not apply to persons or entities as employees, agents, or vendors of any entity engaged in commercial marijuana activity authorized by the Tribal Code in Chapter 23.03, provided that such person or entity acts in accordance with the Tribal Code.

[HIST: Source - Resolution No. 17-A-064, passed 6/12/17. Resolution No. 17-A-093, passed 9/11/17, added the penalties for growing marijuana within the Tribe's jurisdiction.]

#### 5.03.05 Medical Marijuana

a) Except as otherwise set forth in this section, it is not a violation of this chapter or any other provision of Tribal Law for a qualifying patient or

designated provider who has been entered into the Washington State medical marijuana authorization database and who holds a valid recognition card to possess marijuana concentrates, marijuana-infused products, or usable marijuana for the personal medical use of the qualifying patient and in a manner that does not exceed the limits set forth in RCW 69.51A.210.

b) If a person is both a qualifying patient and a designated provider for another qualifying patient, the person may possess no more than twice the amounts described in Section 23.03.05 of this code and in RCW 69.51A.210 for the qualifying patient and designated provider, whether the marijuana concentrates, marijuana-infused products, or usable marijuana are possessed individually or in combination between the qualifying patient and his or her designated provider.

c) Notwithstanding any provision of the laws of the State of Washington, including, without limitation, any provision of RCW 69.50.101 and 69.51A as they currently exist or are hereafter amended, no person may plant, grow, produce, cultivate, or process marijuana in any form, including all forms defined in Section 5.03.01, within the boundaries of the Port Gamble S'Klallam Reservation or on any tribal lands. No person may form a "cooperative" as defined in RCW 69.51A.250 for the purpose of planting, growing, producing, cultivating, or processing marijuana in any form within the boundaries of the Port Gamble S'Klallam Reservation or on any tribal lands.

d) No person shall grow marijuana within the jurisdiction of the Tribe despite having a medical marijuana recognition card issued by Washington State that specifies the amount of plants a patient may grow and the amount of useable marijuana that a patient may acquire from the plants.

Any violation of subsections a) or b) is a Misdemeanor 2.

Any violation of subsections c) or d) is covered in Sub-Section 5.03.04(a) of Marijuana Production, Processing, and Sale.

[HIST: Source - Resolution No. 17-A-064, passed 6/12/17. At the Tribal Council meeting on June 12, 2017, Council heard a public comment on the issue of individual tribal members growing marijuana for medical purposes. The Council passed the resolution but also decided to deviate from Washington State law and make it illegal for any individual on the reservation to grow marijuana regardless of having a WA State medical marijuana recognition card. Resolution No. 17-A-093, passed 9/11/17, added the penalties for growing marijuana within the Tribe's jurisdiction.]

#### 5.03.06 Penalties for Illegal Substances

a) Any person who possesses for personal use or grows or manufactures for personal use any of the substances listed in Section 5.03.02 of this code is guilty of a Misdemeanor 1.

b) Any person who grows, manufactures, delivers, sells, or possesses with intent to sell, deliver, or manufacture, any of the substances listed in Section 5.03.02 of this code shall be guilty of a Felony 1. The term "manufacture" shall not apply to growing marijuana for personal use.

c) Any person who knowingly possesses any materials used to manufacture any of the substances listed in Section 5.03.02 of this code is guilty of a Misdemeanor 1.

d) Any person who creates, delivers, or possesses a counterfeit illegal drug shall be guilty of a Felony 2. A counterfeit illegal drug is a substance which, although not in fact containing any illegal drug, or not in fact containing the drug it purports to contain, was intended to be understood by others to be a substance listed in Section 5.03.02.

e) Any person who offers, arranges, or negotiates for the delivery of an illegal drug listed in Section 5.03.02 and then delivers any other substance in lieu of an illegal drug listed in Section 5.03.02 shall be guilty of a Felony 2.

f) The production, manufacture, growing, processing, packaging, delivery, distribution, sale, or possession of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products in compliance with Chapter 23.03 of this code and Section 5.03.02 of this code shall not constitute a violation of this section, this chapter, this title, or any other provision of Tribal law. The production, manufacture, growing, processing, packaging, delivery, distribution, sale, or possession of marijuana in a manner not substantively in compliance with Chapter 23.03 or with Sections 5.03.02, 5.03.03, 5.03.04, or 5.03.05 of this code shall be a crime punishable under Sections 5.03.03, 5.03.04, and 5.03.05 respective of each individual violation.

[HIST: Source - Resolution No. 17-A-064, passed 6/12/17. This section replaced five separate sections that previously existed in Chapter 5.03 Alcohol and Drug Related Offenses. That chapter was divided into two: one for controlled substances and one for alcohol. The five previous sections separated the crimes of delivery, possession, possession with intent to deliver, possession of precursors, and manufacturing of controlled substances. This new section combined the previous five into one section and removed the citation to the federal law due to the Tribe's legalization of marijuana. Resolution No. 17-A-093, passed 9/11/17, added the penalties for growing marijuana within the Tribe's jurisdiction.]

#### 5.03.07 Possession or Use of Drug Paraphernalia

a) A person is guilty of use of drug paraphernalia if he or she uses drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into

the human body a controlled substance, possession of which is illegal under 5.03.02 of this code.

b) RCW 69.50.102 as presented and enacted and as may be subsequently amended, shall be referred to by the Court as guidance on how to define "drug paraphernalia." Health professionals may lawfully distribute "drug paraphernalia" for public and private health purposes.

c) In determining whether an item is drug paraphernalia or if intent to use the drug paraphernalia exists, the Court may consider all reasonable information, including proximity of the paraphernalia to controlled substances, or residue of controlled substances on the paraphernalia. Possession of Drug Paraphernalia is a Misdemeanor 1.

[HIST: Source – Resolution N. 10 A 063, passed 06/08/10 adopted this section, and Resolution No 12-A-088 amended it to redefine “drugs” to mean controlled substances listed in the schedule under 21 CFR 1308.11-15. Resolution No. 17-A-064, passed 6/12/17, amended this section to cite to the Washington State code and remove the reference to the Federal law due to the Tribe’s legalization of marijuana. Also, the sentence for this offense changed from a Class B offense to a Misdemeanor 1.]

#### 5.03.08 Delivery of Controlled Substances, Alcohol, or Marijuana to a Minor

A person is guilty of delivery of controlled substances, alcohol, or marijuana to a minor if he or she delivers, gives, sells or trades to a minor under the age of 21 any controlled substance, alcoholic beverage, or marijuana, or if he or she allows a minor under the age of twenty-one (21) to use such substance on his or her property. A person who has in his/her possession a license specifically authorizing that person to dispense a controlled substance to a minor shall be exempt.

Delivery of controlled substances, alcohol, or marijuana to a minor is a Felony 2.

[HIST: Source - Resolution No. 10 A 063, passed 06/08/10 adopted this section, amended by Resolution 12-A-088, to redefine “drugs” to mean controlled substances listed in the schedule found at 21 CFR 1308.11-15. Resolution No. 17-A-064, passed 6/12/17 retained this section while legalizing marijuana; however, “controlled substances” now refers to substances listed in the RCW and not in the federal code. Also, the sentence for this offense changed from a Class A offense to a Felony 2.]

#### 5.03.09 Practice of Sniffing

Any person who intentionally smells or inhales the fumes of any type of substance for the purpose of causing a condition of, or inducing symptoms of intoxication or in any manner disturbing the audio, visual or mental processes shall be guilty of a Misdemeanor 1. This section shall not apply to the inhalation of anesthesia for medical or dental purposes.

[HIST: Source - Resolution No. 10 A 063, passed 06/08/10 adopted this section. Resolution No. 17-A-064, passed 6/12/17 changed the title of this section from

“Unlawful Inhalation of Noxious Substances” to “Practice of Sniffing.” Also, the sentence for this offense changed from a Class B to a Misdemeanor 1.]

#### 5.03.10 Unauthorized Possession, Distribution, or Misuse of Prescription Drugs

A person shall not knowingly:

- a) Possess or use a prescription drug without a current and valid prescription from a licensed medical personnel. The above provision shall not apply to any practitioner acting within the scope of his/her license, or to any employee acting within the scope of the usual course of business.
- b) Obtain or procure the administration of a prescription drug by fraud, deceit, or misrepresentation.
- c) Unless authorized to do so, sell, transport for sale or import into the Port Gamble S’Klallam Reservation prescription drugs.
- d) Misuse or abuse a prescription drug in any way that is inconsistent with a drug’s prescribed use, regardless of whether a person has a valid prescription for the drug from a licensed medical personnel.

Unauthorized Possession, Distribution, or Misuse of Prescription Drugs is a Misdemeanor 1.

[HIST: Source - Resolution No. 10 A 063, passed 06/08/10 adopted this section. Amended by Resolution No. 15-A-069, passed 6/8/15, to include misuse or abuse of prescription drugs as a crime. Resolution No. 17-A-064, passed 6/12/17 changed the sentence for this offense from a Class B to a Misdemeanor 1.]

#### 5.03.11 Unauthorized Use of State Medical Marijuana Database

a) It is unlawful for a person to knowingly or intentionally access the medical marijuana authorization database for any reason not related to the following:

- 1) Adding a qualifying patient or designated provider and noting the amount of product for which the qualifying patient is authorized;
- 2) Confirming the validity of a recognition card;
- 3) Issuing a replacement recognition card for a card that is lost or stolen; or
- 4) A Port Gamble S’Klallam tribal police officer engaged in a bona fide specific investigation or a suspected marijuana-related activity that may be illegal under tribal law or state law to confirm validity of a recognition card.

b) It is unlawful for a person to knowingly or intentionally:

- 1) Disclose any information received from the medical marijuana authorization database in violation of the provisions contained in RCW 69.51A.230, including but not limited to, qualifying patient or designated provider names, addresses, or amount of marijuana for which they are authorized;
- 2) Produce a recognition card or to tamper with a recognition card for the purpose of having it accepted by a tribal medical marijuana retailer in order to purchase marijuana as a qualifying patient or designated provider [or to grow marijuana plants in accordance with this chapter];
- 3) If a person is a designated provider to a qualifying patient, sell, donate, or supply marijuana produced or obtained for the qualifying patient for the designated provider's own personal use or benefit; or
- 4) If the person is a qualifying patient, sell, donate, or otherwise supply marijuana produced or obtained by the qualifying patient to another person.

A person who violates this section is guilty of a Felony 2.

[HIST: Source - Resolution No. 17-A-064, passed 6/12/17.]

## **Chapter 5.04 Offenses Against the Community Peace, Morals, Safety and Welfare**

### **5.04.01 Reckless Driving**

Any person who operates any motor vehicle within the jurisdiction of the Port Gamble S'Klallam Tribe in a manner, which endangers or is likely to endanger any person or property shall be guilty of a Class C offense.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section to include acts previously included in negligent driving and reckless driving. The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05.]

### **5.04.02 Disorderly Conduct**

Any person who engages in fighting in a public or private place, disturbs or annoys any public or private assembly, or commits any act of public indecency shall be guilty of a Class D offense.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section to state "private" rather than "religious" assembly. The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05.]



#### 5.04.03 Gambling

Any person who sponsors any gambling device or engages in any gambling practice without express authorization from the Port Gamble S’Klallam Tribe shall be guilty of a Class C offense.

[HIST: Source - Port Gamble S’Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section to increase the fine and to clarify. The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05.]

#### 5.04.04 Prostitution—REPEALED

[HIST: Source - Port Gamble S’Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section to define and expand the crime of prostitution. The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05. Repealed and replaced by Chapter 5.07 Rape—Sex Crimes—Public Indecency—Prostitution, Resolution No. 17-A-010, passed 1/23/17.]

#### 5.04.05 Carrying a Concealed Firearm

Any person who knowingly conceals a firearm upon his person or who carries a firearm within the passenger compartment of any vehicle, without a valid permit to carry a firearm granted by the Port Gamble S’Klallam Tribe shall be guilty of a Class C offense.

It shall be a complete defense to this offense that the firearm located within the passenger compartment of a vehicle is, a) unloaded and b) is a hunting rifle, meaning a firearm that is not prohibited from use in hunting, under Title 18 of this code.

[HIST: Source - Port Gamble S’Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section deleting the element of “public places”. The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05.]

#### 5.04.06 Firearm Violations

Any person who discharges any firearm which propels a missile capable of causing injury in any manner: a) within 1/4 mile of any dwelling without permission of the residents of the dwelling, b) creating a nuisance or hazard, c) from or across any public highway, or d) near any gathering of people except in a firing range; or who conveys in or on any vehicle a loaded firearm; or who knowingly allows any person whose behavior he or she is responsible for to violate any portion of this section, shall be guilty of a Class C offense.

Any person found to be in violation of this section while the person is under the influence of an intoxicant shall be guilty of a Class B offense.

[HIST: Source - Port Gamble S’Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section for clarity. The mandatory pre-

sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05. Resolution 17-A-064, passed 6/12/17 legalized marijuana and separated the Alcohol and Drug Related Offenses chapter into two different chapters. The second paragraph of this section was originally Section 5.03.17 Firearm Violation While Under the Influence of Intoxicants, but now it is combined with the Firearms Violations section.]

5.04.07 Cruelty to Animals, Dog Fighting Prohibited

Any person who abandons, neglects, tortures, needlessly annoys or cruelly mistreats any animal, or causes or allows an animal to engage in fighting, or engage in any activity for the purpose of training a dog to engage in fighting, shall be guilty of a Class C offense.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution No. 04 A 033, passed 3/09/04 which added the prohibitions regarding fighting and added subsection (4). Amended by Resolution 05-A-054, passed 6/14/05.]

5.04.08 Failure to Send Children to School

Any person who, without good cause, fails to send his or her children or any children under his care to school, who have not reached their sixteenth (16th) birthday or have not completed the eighth (8th) grade, whichever is first, shall be guilty of a Class D offense.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05.]

5.04.09 Failure to Control Animals

- a) Any person who commits any of the following acts or omissions is guilty of a Class C offense:
  - 1) Any person who keeps, or has care or custody, of any animal known to be vicious or liable to attack or harass human beings or other animals, or known to possess any vicious or dangerous tendencies, unless such animal is securely kept to prevent injury to any person;
  - 2) Any person who keeps or has care or custody of any animal that injures another person;
  - 3) Any person who allows any pit bull dog to be present within the jurisdiction of the Port Gamble S'Klallam Tribe, unless he or she meets every requirement of section 13.03.03 which provides a narrow exception to the ban on pit bulls;
  - 4) Any person who keeps or has care or custody of any of a female dog who fails to keep the dog in confinement during any time period in which the dog is in heat. Confinement shall mean

keeping the female dog indoors or in an enclosure, which prevents access by other dogs by any means including digging.

- 5) Any person who keeps or has care or custody of any dog that:
  - i) Causes physical damage to the property of another person;
  - ii) Roams, strays, runs in packs, or runs at large within any area under the jurisdiction of the Port Gamble S'Klallam Tribe;
  - iii) Chases any person, bicycle or motor vehicle;
  - iv) Harasses livestock;
  - vi) Scatters garbage;
  - vi) Is allowed access to other dogs while the dog is in heat;
  - vii) Hampers traffic; or
  - viii) Digs holes in land not leased or assigned to the dog's owner.
- b) Any animal kept in violation of this section shall be subject to seizure, and impoundment as provided in chapter 13.03 of this code.
- c) No part of this section precludes any person bitten or wounded by any animal from bringing a civil cause of action for damages in the Port Gamble S'Klallam Community Court.

[HIST: Source - Resolution No. 87 A 13, passed 5/12/87. Amended by Resolution No. 04 A 033, passed 3/09/04 which substantially expanded this section and changed the title from Vicious Animals to Failure to Control Animals. Amended by Resolution 05-A-054, passed 6/14/05.]

5.04.10 Violating Provisions of a Restraining Order or Protection Order

Any person who violates the restraint provisions of a domestic violence protection order under Title 16 of this Code, knowing that the order has been issued against him or her, shall be guilty of a Class C offense.

Any person who violates the restraint provisions of a civil restraining or protection order under Title 3 of this Code, knowing that the order has been issued against him or her, shall be guilty of a Class C offense.

Violation of a restraining or a protection order shall also constitute contempt of court and may be dealt with under Chapter 1.06 of this code.

[HIST: Source - Resolution No. 02 A 108, passed 12/17/02 adopted this section. Amended by Resolution 05-A-054, passed 6/14/05. Amended by Resolution 14-A-045, passed 3/25/14 to re-organize for clarity.]

5.04.11 Harboring a Person Who Is Excluded or Banished

Any person who harbors, conceals or gives assistance to a person who is excluded or banished from the jurisdiction of the Port Gamble S'Klallam Tribe or who shall allow such excluded or banished person in his or her dwelling, shall be guilty of a Class C offense.

It shall be a complete defense to this offense that the defendant reported the presence of the excluded person to law enforcement within 24 hours of contact.

[HIST: Source - Amended by Resolution 05-A-054, passed 6/14/05. Amended by Resolution No. 15-A-029, passed 4/13/15, to include banishment language.]

5.04.12 Fireworks Offenses -- Definitions

Fireworks are defined and regulated under Title 13 (Health and Safety), Chapter 13.01 of the Port Gamble S'Klallam Tribal Law and Order Code. The use of the terms "fireworks" and "discharge" and other terms relevant to fireworks use in this chapter shall have the same meaning as in Title 13 unless the context clearly requires another meaning.

[HIST: Source - Resolution 12-A-057, passed 4/24/12.]

5.04.13 Reckless Discharge of Fireworks

Any person who discharges fireworks in a reckless manner that creates substantial risk of property damage or death or serious physical injury to another, or who discharges fireworks while under the influence of intoxicants, or who discharges fireworks while a PGST burn ban is in effect shall be guilty of a Class C offense.

Examples of reckless discharge of fireworks include, but are not limited to, discharge of fireworks within 300 feet of a fireworks stand or the edge of

the Gliding Eagle Marketplace property, or discharge of fireworks from a moving vehicle.

[HIST: Source - Resolution 12-A-057, passed 4/24/12.]

#### 5.04.14 Disruptive Discharge of Fireworks

Any person whose discharge of fireworks results in two or more reports within a two-hour period to Tribal Police regarding noise or other disturbance caused by fireworks, or who discharges fireworks after a law enforcement officer provides verbal notice to the person of a report of noise or other disturbance shall be guilty of a Class D offense.

[HIST: Source - Resolution 12-A-057, passed 4/24/12.]

#### 5.04.15 Violation of Fireworks Curfew

Any person who discharges fireworks on weekends between 2:00 a.m. and 10:00 a.m., or on weekdays from two hours after sunset until 10:00 a.m., shall be guilty of a Class D offense. The weekday curfew begins two hours after sunset on Sunday or Monday at 12:01 a.m., whichever is earlier. The following are curfew exceptions:

- a. The Tribal Council or the Tribal Administrator may publish a modification or suspension of the fireworks curfew.
- b. This curfew shall not be in effect on the Fourth of July and New Year's Eve.

[HIST: Source - Resolution 12-A-057, passed 4/24/12.]

#### 5.04.16 Allowing a Minor Child to Discharge Fireworks

Any person who allows a minor child to discharge fireworks shall be guilty of an offense if:

- a. The minor is eleven (11) years old or younger, and the discharge of fireworks causes injury to any person, including the minor, or property damage; or
- b. The minor is between the ages of twelve (12) and seventeen (17), and the discharge of fireworks causes injury to any person, including the minor, or property damage, and there is no adult supervision present at the time and location of the injury or damage.

If the minor's discharge of fireworks causes injury that requires emergency medical transport or hospitalization or causes property damage in excess of \$100.00, the charge shall be a Class C offense.

If the minor's discharge of fireworks causes injury that does not require emergency medical transport or hospitalization, or the property damage is valued at \$100.00 or less, the charge shall be a Class D offense.

A minor child who discharges fireworks and causes injury or property damage may be charged with any applicable offense.

[HIST: Source - Resolution 12-A-057, passed 4/24/12.]

#### 5.04.17 Separate and Additional Offenses Related to Fireworks

The following offenses can be charged separately and additionally to other criminal offenses and the fireworks offenses specified above.

- a) Disorderly Conduct – Fireworks use may be charged as Disorderly Conduct.
- b) Arson – Fireworks use that causes actual injury or damage to property may be charged separately and additionally as Arson.

[HIST: Source - Resolution 12-A-057, passed 4/24/12.]

#### 5.04.18 Delivery of Tobacco to Minor

Any person who gives, sells, or trades any product containing tobacco to a person under the age of eighteen shall be guilty of a Class C offense.

It is a defense to prosecution of a commercial seller of tobacco products, including S'Klallam retail employees, that the person making the sale reasonably relied on governmentally issued identification that shows the purchaser's age and bears his or her photograph.

[HIST: Source - Resolution No. 96 A 035, passed 2/22/96. Amended by Resolution 05-A-054, passed 6/14/05. Resolution No. 17-A-064 legalized marijuana and split the drug and alcohol chapter into two different chapters. This section was originally Section 5.03.18 under Drug and Alcohol Offenses, and it is now part of Chapter 5.04 Offenses Against the Community Peace, Morals, Safety and Welfare.]

### **Chapter 5.05 Offenses Related to Administration of Tribal Government**

#### 5.05.01 Resisting Arrest

Any person who willfully resists arrest by use of force shall be guilty of a Class C offense.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section deleting "violence" from former "force or violence" language. Amended by Resolution 05-A-054, passed 6/14/05.]

5.05.02 Obstructing a Public Officer

Any person who willfully interferes in any way with the lawful process of a police officer, fireman, ambulance attendant, or emergency medical technician shall be guilty of a Class C offense.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section adding "emergency medical technician". Amended by Resolution 05-A-054, passed 6/14/05.]

5.05.03 Refusing to Aid Officer

Any person who fails to respond to a request for assistance by any police officer, ambulance attendant, fireman, or emergency medical technician shall be guilty of a Class C offense.

[HIST: Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section adding "emergency medical technician". Amended by Resolution 05-A-054, passed 6/14/05.]

5.05.04 Intimidation of a Public Officer-REPEALED

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84 Repealed by Resolution 05-A-054, passed 6/14/05.]

5.05.05 Escape

Any person in lawful custody for any offense who escapes, attempts escape or assists another to escape from lawful custody shall be guilty of a Class C offense.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section for clarity. Amended by Resolution 05-A-054, passed 6/14/05.]

5.05.06 Perjury

Any person who knowingly makes a false statement under oath in any proceeding in the Community Court or who induces another person to do so shall be guilty of a Class C offense.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section for clarification. Amended by Resolution 05-A-054, passed 6/14/05.]

5.05.07 Intimidating a Juror

Any person who, by use of a threat, attempts a) to influence the opinion, decision or vote of a juror in the Community Court or b) induces the juror to be absent from the proceeding shall be guilty of a Class C offense

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84 Amended by Resolution 05-A-054, passed 6/14/05.]

5.05.08 Intimidating a Witness

Any person who, by use of a threat, attempts a) to influence the testimony of a witness in any official proceeding or b) to induce the witness to be absent from the proceeding shall be guilty of a Class C offense.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84. Amended by Resolution 05-A-054, passed 6/14/05.]

5.05.09 Tampering with a Witness

Any person who attempts to induce a witness, or any person he or she believes has been or may be called as a witness in any proceeding, to do any of the following shall be guilty of a Class C offense:

- a) Testify or inform falsely;
- b) Avoid service of process;
- c) Absent himself or herself from any proceeding or investigation; or
- d) Withhold information from law enforcement or the Court.

The fact that a witness was not actually influenced or prevented from testifying shall not be a defense to a charge under this section.

[HIST: Source - Resolution No. 14-A-109, passed 8/11/14.]

5.05.10 Tampering with a Physical Evidence

Any person who, without legal right or authority, attempts any of the following shall be guilty of a Class C offense:

- a) Destroying, mutilating, concealing, removing, or altering evidence with intent to impair its use, truthfulness, or availability in a current, a pending, or a prospective case; or
- b) Knowingly creating, presenting, or offering any false evidence with intent that it be introduced in a current, a pending, or a prospective case.

[HIST: Source - Resolution No. 14-A-109, passed 8/11/14.]

5.05.11 Misuse of Funds

Any person having lawful custody of property or funds not his own, including tribal funds, who appropriates such property or funds for his own use or otherwise handles same in a manner not authorized by law shall be guilty of a Class C offense.



[HIST: Source - Resolution No. 84 A 03, passed 2/14/84 Amended by Resolution 05-A-054, passed 6/14/05.]

#### 5.05.12 Official Misconduct

Any tribal official who intentionally commits an unauthorized act related to or intentionally refrains from performing, a duty imposed upon him or her by law shall be guilty of a Class C offense.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84. Amended by Resolution 05-A-054, passed 6/14/05.]

#### 5.05.13 Bribery

Any person who offers or gives anything of monetary value to any person acting on behalf of the Port Gamble S'Klallam Tribe with intent to influence his decision on any official matter is guilty of bribery. Any person acting on behalf of the Tribe who accepts anything of monetary value upon an understanding that a decision on an official matter shall be influenced thereby is guilty of a Class C offense.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section for clarification. Amended by Resolution 05-A-054, passed 6/14/05.]

#### 5.05.14 Unlawful Arrest/False Charges

Any person who knowingly makes or causes to be made any unlawful arrest or false charge against another person shall be guilty of a Class C offense.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section for clarification. Amended by Resolution 05-A-054, passed 6/14/05 to modify the name of the offense.]

#### 5.05.15 Assault of Police Dog

Any person who threatens to harm; attempts to harm; or who intentionally injures, disables, shoots or kills; by any means, any dog that the person knows or should have reasonably known to be a police dog, whether or not the dog is actually engaged in police work at the time, shall be guilty of a Class B offense.

[HIST: Source – Adopted on an interim basis by Resolution No. 02 A 19, passed 2/12/02. Final adoption by Resolution No. 02A 41, passed 3/11/02 following a public hearing. Amended by Resolution 05-A-054, passed 6/14/05.]

#### 5.05.16 Failure to Appear/Bail Jumping.

Any person having been released by court order or admitted to bail with the requirement of a subsequent personal appearance before the Court, and knowingly fails without lawful excuse to appear as required is guilty

of a Class B offense. Unless otherwise established, the failure to appear when required shall be inferred to have been without lawful excuse.

[HIST: Source – Adopted by Resolution 05-A-054, passed 6/14/05.]

## **Chapter 5.06 Other Offenses**

### 5.06.01 Violation of Tribal Ordinance

Any person who violates an ordinance promulgated by the Port Gamble S’Klallam Community Council or Tribal Council shall be guilty of an offense and upon conviction shall be sentenced as provided in the ordinance or if no sentencing is provided by the ordinance to the sentence provided for a Class D offense.

[HIST: Source - Port Gamble S’Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended to delete reference to the Secretary of Interior and to permit sentencing for violation of ordinances that don't provide other sanctions. Amended by Resolution 05-A-054, passed 6/14/05.]

### 5.06.02 Criminal Attempt

Any person who, with intent to commit a specific crime, does any act which is a substantial step toward committing that crime shall be guilty of an offense and punishable as follows:

Criminal attempt of a class A offense shall be punished as a class B offense;

Criminal attempt of a class B offense shall be punished as a class C offense;

Criminal attempt of a class C offense shall be punished as a class D offense;

Criminal attempt of a class D offense shall be punished by a sentence that is less than the maximum provided for the class D range.

[HIST: Source - Resolution No. 84 A 03, passed 2/14/84. Amended by Resolution 05-A-054, passed 6/14/05.]

### 5.06.03 Aiding and Abetting

Any person who knowingly aids and abets another person to commit an act or engage in conduct which is unlawful under the laws of the Port Gamble S’Klallam Tribe shall be guilty of the offense aiding and abetting and upon conviction thereof shall be sentenced in the same manner and to the same degree as if he or she had committed the primary offense.

[HIST: Source - Port Gamble S’Klallam Law and Order Code, 9/13/79 Amended by Resolution 05-A-054, passed 6/14/05.]

## Chapter 5.07 Rape—Sex Crimes—Public Indecency—Prostitution

### 5.07.01 Definitions

When the words listed in this section appear in this chapter, they shall have the following meaning unless a different meaning is clearly intended.

- a) "Accessory" means a person who aids, abets, commands, or counsels another in the commission of a crime.
- b) "Consent" means that at the time of the act of sexual intercourse there are actual words or conduct indicating freely given agreement to have sexual intercourse.
- c) "Forcible compulsion" means physical force that overcomes resistance, or a threat, expressed or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that he or she or another person will be harmed.
- d) "Married" means one who is legally married to another.
- e) "Mental incapacity" is the condition existing at the time of the offense that prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance, or from some other cause.
- f) "Physically helpless" means a person who is unconscious or for any other reason is physically unable to communicate an unwillingness to an act.
- g) "Sexual intercourse":
  - 1) Has its ordinary meaning and occurs upon any penetration, however slight; and
  - 2) Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes; and
  - 3) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-010, passed 1/23/17 created this new chapter on sex crimes. Previously, the crimes of rape and indecent liberties existed as Sections 5.01.08 and 5.01.09 under Chapter 5.01 Offenses

Against the Person. This new chapter expanded the crime of rape into degrees and added several other sex-related crimes that were previously not listed in the PGST Criminal Code.]

5.07.02 Testimony—Evidence—Written Motion—Admissibility

a) In order to convict a person of any rape, sex crime, public indecency, or prostitution offenses, it shall not be necessary that the testimony of the alleged victim be corroborated.

b) Evidence of the victim's past sexual behavior, including but not limited to the victim's marital history, divorce history, or general reputation for promiscuity, non-chastity, or sexual conduct contrary to community standards is inadmissible on the issue of credibility, and it is inadmissible to prove the victim's consent except as provided in subsection C of this section. However, when the perpetrator and the victim have engaged in sexual intercourse with each other in the past, and when past behavior is material to the issue of consent, then evidence concerning the past behavior between the perpetrator and the victim may be admissible on the issue of consent to the offense.

c) In any prosecution for the crime of rape, or for an attempt to commit rape, or for an assault with an intent to commit rape, evidence of the victim's past sexual behavior, including but not limited to the victim's marital behavior, divorce history, or general reputation for promiscuity, non-chastity, or sexual conduct contrary to community standards is not admissible if offered to attack the credibility of the victim, but it is admissible on the issue of consent only under the following procedure:

1. A written pretrial motion shall be made by the defendant to the Court and prosecutor stating that the defense has an offer of proof of the evidence of the past sexual behavior of the victim proposed to be presented and its relevancy on the issue of the consent of the victim;
2. The written motion shall be accompanied by an affidavit or affidavits in which the offer of proof shall be stated;
3. If the Court finds that the offer of proof is sufficient, the Court shall order a hearing out of the presence of the jury, if any, and the hearing shall be closed except to the necessary witnesses, the defendant, counsel, and those who have a direct interest in the case or in the work of the Court.
4. At the conclusion of the hearing, if the Court finds that the evidence the defendant is offering regarding the past sexual behavior of the victim is:
  - i) Relevant to the issue of the victim's consent;

ii) Not inadmissible because its probative value is subsequently outweighed by the probability that its admission will create a substantial danger of undue prejudice; and

iii) Imperative to the defendant's right to a fair trial in that exclusion of the evidence would result in denial of substantial justice to the defendant, then

the Court shall make an order stating what evidence may be introduced by the defendant and the nature of the questions to be permitted. The defendant may then offer evidence under the order of the Court.

5. Nothing in this section shall be construed to prohibit cross-examination of the victim on the issue of past sexual behavior, but the Court may require a hearing under subsection C of this section concerning such evidence.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-010, passed 1/23/17.]

#### 5.07.03 Defense to Prosecution Under This Chapter

In any prosecution under this chapter in which lack of consent is based solely upon the victim's mental incapacity or upon the victim being physically helpless, it is a defense that at the time of the offense the defendant reasonably believed that the victim was not mentally incapacitated and/or physically helpless. The defendant has the burden of proof by a preponderance of the evidence.

In any prosecution under this chapter in which the offense or degree of the offense depends on the victim's age, it is no defense that the perpetrator did not know the victim's age, or that the perpetrator believed the victim to be older. It is a defense that at the time of the offense the defendant reasonably believed the alleged victim to be older based upon declaration as to age by the alleged victim. The defendant has the burden of proof by a preponderance of the evidence.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-010, passed 1/23/17.]

5.07.04 Rape in the First Degree

A person is guilty of rape in the first degree when such person engages in sexual intercourse with another person by forcible compulsion where the perpetrator or an accessory:

- a) Uses or threatens to use a deadly weapon or what appears to be a deadly weapon; or
- b) Kidnaps the victim; or
- c) Inflicts serious physical injury; or
- d) Unlawfully enters into the building or vehicle where the victim is situated.

Rape in the first degree is a felony 1. The Court shall not grant a deferred or suspended sentence to any person convicted of rape in the first degree, except for the purpose of commitment to an inpatient treatment facility.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-010, passed 1/23/17.]

5.07.05 Rape in the Second Degree

A person is guilty of rape in the second degree when, under circumstances not constituting rape in the first degree, the person engages in sexual intercourse with another person:

- a) By forcible compulsion; or
- b) When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated.

Rape in the second degree is a felony 1.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-010, passed 1/23/17.]

5.07.06 Rape in the Third Degree

A person is guilty of rape in the third degree when, under circumstances not constituting rape in the first or second degree, such person engages in sexual intercourse with another person:

- a) Where the victim did not consent to sexual intercourse with the perpetrator and such lack of consent was clearly expressed by the victim's words or conduct; or

- b) Where there is a threat of substantial unlawful harm to property rights of the victim.

Rape in the third degree is a felony 2.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-010, passed 1/23/17.]

#### 5.07.07 Statutory Rape in the First Degree

A person is guilty of statutory rape in the first degree when the person has sexual intercourse with another who is less than twelve (12) years old and the perpetrator is at least twenty-four (24) months older than the victim.

Statutory rape in the first degree is a felony 1.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-010, passed 1/23/17.]

#### 5.07.08 Statutory Rape in the Second Degree

A person is guilty of statutory rape in the second degree when the person has sexual intercourse with another who is at least twelve (12) years old but less than fourteen (14) years old and the perpetrator is at least thirty-six (36) months older than the victim.

Statutory rape in the second degree is a felony 2.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-010, passed 1/23/17.]

#### 5.07.09 Statutory Rape in the Third Degree

A person is guilty of statutory rape in the third degree when the person has sexual intercourse with another who is a least fourteen (14) years old but less than sixteen years old and not married to the perpetrator and the perpetrator is at least forty-eight (48) months older than the victim.

Statutory rape in the third degree is a felony 2.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-010, passed 1/23/17.]

#### 5.07.10 Child Molestation

A person is guilty of child molestation if he or she:

- a) Entices or persuades a child under the age of eighteen (18) to enter a building, vehicle, room, boat, or any other place with intent to commit sexual intercourse as defined in Section 5.07.01 of this title or to commit sexual touching as defined in Section 5.07.09 of this title; or
- b) Has possession of a child under the age of eighteen (18) years in any place with intent to commit sexual intercourse or sexual touching.

Child molestation is a misdemeanor 1, unless the offender has previously been convicted of a felony sexual offense or has previously been convicted under this section or a similar law in any jurisdiction, in which case child molestation is a felony 2. Upon conviction of child molestation, the offender may be required by the Court to undergo medical evaluation and treatment. The Court may order this in addition to or instead of any other sentence imposed by the Court.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-010, passed 1/23/17.]

#### 5.07.11 Abusive Sexual Touching

Any person who knowingly engages in or causes or attempts sexual touching, as defined in this section, with or by another person in any one of the following circumstances commits the crime of abusive sexual touching:

- a) By using force against the other person;
- b) By in any way threatening or causing fear in the other person;
- c) When the other person is a child under the age of thirteen (13);
- d) When the other person is unconscious or physically or mentally incapable of declining participation or communicating unwillingness to engage in sexual activity for any reason including, but not limited to, physical handicap, mental disability, alcohol, or drug intoxication;
- e) When the defendant is in a position of trust or authority with respect to the other person, and takes advantage of that position to cause sexual touching; or



- f) When the defendant is related to the victim as an ancestor, descendant, or sibling, aunt, uncle, niece, nephew, or first cousin.

Abusive sexual touching is a felony 1.

“Sexual touching” means any touching of the sexual or other intimate parts of a person done for the purpose of arousing or gratifying the sexual desire of any person, or for the purpose of abusing, humiliating, harassing, or degrading another person.

“Position of trust or authority” means, but is not limited to, the special authoritative or confidential relationships relating to the provision of education, health care, any kind of counseling, coaching, religious advice, public safety services, or other professional services.

[HIST: Source - Port Gamble S’Klallam Law and Order Code. Resolution No. 17-A-010, passed 1/23/17.]

#### 5.07.12 Public Indecency

A person is guilty of public indecency if he or she makes any open and obscene exposure of his or her person or the person of another knowing that such conduct is likely to cause reasonable affront or alarm.

Public indecency is a misdemeanor 2 unless such person exposes himself or herself to a person under the age of fourteen (14) years, in which case indecency is a misdemeanor 1.

[HIST: Source - Port Gamble S’Klallam Law and Order Code. Resolution No. 17-A-010, passed 1/23/17.]

#### 5.07.13 Prostitution

A person is guilty prostitution if such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee. Fees include money, property, goods, or services, or other things of value.

Prostitution is a misdemeanor 2.

It is a complete defense to the charge of prostitution if the person who engages in sexual conduct in return for a fee is under eighteen (18) years old.

[HIST: Source - Port Gamble S’Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section to define and expand the crime of prostitution. The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05. This was Section 5.04.04 under Chapter 5.04 Offenses Against the Community Peace, Morals, Safety, and Welfare until 1/23/17. Resolution No. 17-A-010, passed 1/23/17, moved this section to become a part of new Chapter 5.07 on Sex Crimes.]

5.07.14 Prostitution—Sex of Parties Immaterial

In any prosecution for prostitution, the sex of the parties or prospective parties to the sexual conduct engaged in, contemplated, or solicited is immaterial, and it is not a defense that:

- a) Such persons were the same sex; or
- b) The person who received, agreed to receive, or solicited a fee was a male and the person who paid or agreed or offered to pay such fee was female.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-010, passed 1/23/17.]

5.07.15 Promoting Prostitution—Definitions

For the purposes of Sections 5.07.14, 5.07.15, and 5.07.16, the following definitions apply:

- a) "Advances prostitution." A person "advances prostitution" if, acting other than as a prostitute or as a customer thereof, he or she causes or aids a person to commit or engage in prostitution, procures or solicits customers for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house, room, vehicle, or other space for an act of prostitution or as a prostitution enterprise, or engages in any other conduct designed to institute, aid, or facilitate an act or enterprise of prostitution.
- b) "Profits from prostitution." A person "profits from prostitution" if, acting other than as a prostitute receiving compensation for personally rendered prostitution services, he or she accepts or receives money or other property under an agreement or understanding with any person whereby he or she participates or plans to participate in the proceeds of prostitution activity.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-010, passed 1/23/17.]

5.07.16 Promoting Prostitution in the First Degree

A person is guilty of promoting prostitution in the first degree if he or she knowingly:

- a) Advances prostitution by compelling a person by threat or force to engage in prostitution or profits from prostitution that results from such threat or force; or
- b) Advances or profits from prostitution of a person less than eighteen (18) years old.

Promoting prostitution in the first degree is a felony 1.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-010, passed 1/23/17.]

5.07.17 Promoting Prostitution in the Second Degree

A person is guilty of promoting prostitution in the second degree if he or she knowingly:

- a) Profits from prostitution; or
- b) Advances prostitution.

Promoting prostitution in the second degree is a felony 2.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-010, passed 1/23/17.]

5.07.18 Permitting Prostitution

A person is guilty of permitting prostitution if, having possession or control of premises, vehicle, or other space that he or she knows is being used for prostitution purposes, he or she fails without lawful excuse to make reasonable effort to halt or abate such use.

Permitting prostitution is a misdemeanor 1.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-010, passed 1/23/17.]

5.07.19 Sex Trafficking

A person is guilty of sex trafficking when he or she is knowingly involved in the recruitment, harboring, transportation, provision, or obtaining of a person for the purposes of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion.

Sex trafficking is a felony 1.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-010, passed 1/23/17.]

**Chapter 5.08 Liquor**

5.08.01 Reference

In addition to the offenses set forth in this section, activities related to liquor within the jurisdiction of the Port Gamble S'Klallam Tribe shall be controlled by Title 14 the Liquor Code of the Port Gamble S'Klallam Tribe's Law and Order Code.

[HIST: Source - Resolution No. 17-A-064, passed 6/12/17. After serious deliberation, the Port Gamble S'Klallam Tribe has determined that present day circumstances, including the Washington State's legalization of marijuana, make a complete ban of marijuana within Tribal Lands ineffective and unrealistic, and the Tribe has decriminalized its possession in very limited circumstances. In order to incorporate this change into the criminal code, the previous chapter on drugs and alcohol was divided into two chapters, and this new chapter on liquor is a result of that change.]

5.08.02 Illegal Sale, Purchase, Possession of Liquor; Illegal Transfer or Use of I.D.

No person shall:

- a) Sell or offer for sale by the drink, bottle, or container or keep or possess with intent to sell any liquor, except as authorized by the Port Gamble S'Klallam Liquor Code;
- b) Manufacture any liquor with intent to sell within the Tribe's jurisdiction;
- c) Purchase liquor from any other person other than at a duly authorized tribal liquor store or other business authorized to sell liquor within the Tribe's jurisdiction;
- d) Transfer an identification of age to a minor for the purpose of permitting such minor to obtain liquor; however, corroborative testimony of a witness other than a minor shall be a requirement of conviction; or

- e) Attempt to purchase liquor through the use of false or altered identification, which falsely shows the individual to be over the age of twenty-one (21) years.

Any violation of this section is a Misdemeanor 1.

[HIST: Source - Resolution No. 17-A-064, passed 6/12/17. This section was expanded from the previously existing section entitled "Liquor Violations" that prohibited selling, trading, transporting, or manufacturing alcohol on the reservation without Tribal authorization. Original L.H. for Liquor Violations: Resolution No. 84 A 03, passed 2/14/84 amended this section for clarity. Amended by Resolution 05-A-054, passed 6/14/05.]

#### 5.08.03 Minor in Possession of Liquor

No person under twenty-one (21) years of age shall purchase, possess, obtain, or sell any liquor.

Any violation of this section is a Misdemeanor 2.

[HIST: Source - Resolution No. 02 A 108, passed 12/17/02 adopted this section, and repealed the civil infraction of Minor in Possession of Alcohol. Resolution No. 89-A-51, passed 4/27/89. Amended by Resolution 05-A-054, passed 6/14/05. Resolution No. 17-A-064, passed 6/12/17, amended this section number to fit into new Chapter 5.08 Liquor.]]

[Cross Reference - Section 8.01.02 of the Port Gamble S'Klallam Law and Order Code requires notice of all proceedings involving a person under the age of eighteen to be given to the parent, guardian, or custodian as well as the minor. Amended by Resolution 05-A-054, passed 6/14/05.]

#### 5.08.04 Minor Consuming Liquor

No person under twenty-one (21) years of age shall consume any liquor.

"Consume" means the act of consuming liquor, the condition of having consumed liquor, and the condition of being under the influence of liquor.

Any violation of this section is a Misdemeanor 2.

[HIST: Source - Resolution No. 02 A 108, passed 12/17/02 adopted this section, and repealed the civil infraction of Minor Under the Influence of Alcohol. Resolution No. 89-A-51, passed 4/27/89. Amended by Resolution 05-A-054, passed 6/14/05. Resolution No. 17-A-064, passed 6/12/17, amended this section number to fit into new Chapter 5.08 Liquor.]

[Cross Reference - Section 8.01.02 of the Port Gamble S'Klallam Law and Order Code requires notice of all proceedings involving a person under the age of eighteen to be given to the parent, guardian, or custodian as well as the minor and Section 8.01.06 requires the parent, guardian, or custodian to attend all proceedings for minors under the age of 18.]

5.08.05 Delivery of Liquor to Minor

Any person who gives, sells, or trades any alcoholic beverage to a person under the age of twenty-one shall be guilty of a Felony 2.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section increasing the maximum fine. The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05. Resolution No. 17-A-064, passed 6/12/17, amended this section number to fit into new Chapter 5.08 Liquor and to change the sentence for this offense from a Class A to a Felony 2.]

5.08.06 Social Host Liability

Any person who permits or fails to take action to prevent one or more persons under the age of twenty-one (21) years of age to possess, consume, ingest, or otherwise use alcohol in or on any property including a residence, building, land assignment or outdoor property, including a shed, garage, or other structure, motor vehicles or water crafts, site owned, leased or otherwise controlled by the social host, shall be guilty of a Felony 2.

The person shall be guilty of social host liability when the person knew that the conduct took place on his or her property and the person permitted such conduct or failed to take action to prevent such conduct. In addition, hosts who allow underage drinking and or supply the alcohol that is consumed or possessed by the minors may be in violation of delivery of alcohol to a minor, aiding or abetting minor in possession of alcohol or minor under the influence of alcohol, contributing to the criminal act of a minor, or endangering the welfare of a child.

[HIST: Source - Resolution No. 10 A 063, passed 06/08/10 adopted this section. Resolution No. 17-A-064, passed 6/12/17, amended this section number to fit into new Chapter 5.08 Liquor and to change the sentence for this offense from a Class A to a Felony 2.]

5.08.07 Opening or Consuming Liquor in a Public Place

No person shall open a package containing liquor or marijuana or consume liquor or marijuana in a public place.

However, the Tribe may permit the consumption of liquor in public places that it specifically identifies for that purpose.

Any violation of this section is a Misdemeanor 2.

[HIST: Source - Resolution No. 17-A-064, passed 6/12/17.]

5.08.08 Intoxication in a Public Place—Nuisance

No person shall be under the influence of intoxicating liquor or drugs or glue in any public place who acts in a manner causing a public nuisance.

Intoxication in a Public Place—Nuisance is a Misdemeanor 2.

[HIST: Source - Port Gamble S’Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section slightly for clarity. Amended by Resolution 05-A-054, passed 6/14/05. Resolution No. 17-A-064, passed 6/12/17, amended this section number to fit into new Chapter 5.08 Liquor.]

**Chapter 5.09 Driving a Motor Vehicle**

5.09.01 Driving While Under the Influence of Intoxicating Liquor or Drugs or Glue

A person is guilty of driving while under the influence of intoxicating liquor or any drug or glue if he or she drives a vehicle within the jurisdiction of the Port Gamble S’Klallam Tribe while:

- a) He or she has a 0.08 grams or more of alcohol per two hundred ten (210) liters of breath as shown by analysis of the person’s breath;
- b) He or she has 0.08 percent of more weight of alcohol in the person’s blood as shown by analysis of the person’s blood;
- c) He or she has a THC concentration of 5.00 or more; or
- d) He or she is under the influence of or affected by intoxicating liquor or any drug or glue or other mind-altering substance.

The fact that any person charged with a violation of this section is or has been entitled to the use of such drug under the laws of the Tribe or of any other Tribe or state shall not constitute a defense against any charge of violating this section.

Driving while under the influence is a Misdemeanor 1. If a person has 2 previous convictions in the Tribal Court under this section within ten (10) years of each other, the third charge shall be a Felony 1.

[HIST: Source - Resolution No. 17-A-064, passed 6/12/17. After serious deliberation, the Port Gamble S’Klallam Tribe has determined that present day circumstances, including the Washington State’s legalization of marijuana, make a complete ban of marijuana within Tribal Lands ineffective and unrealistic, and the Tribe has decriminalized its possession in very limited circumstances. In order to incorporate this change into the criminal code, the previous chapter on drugs and alcohol was divided into two separate chapters—Liquor and Controlled Substances. This new Chapter on Driving a Motor Vehicle incorporates driving while under the influence of marijuana into the PGST criminal code and turns some offenses that were previously only civil offenses under Title 9 into criminal offenses under Title 5.]

5.09.02 Reckless Driving

A person is guilty of reckless driving when he or she operates any motor vehicle within the jurisdiction of the Port Gamble S'Klallam Tribe in a manner that endangers or is likely to endanger any person or property.

Reckless driving is a Misdemeanor 1.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Amendments - Resolution No. 84 A 03, passed 2/14/84 amended this section to include acts previously included in negligent driving and reckless driving. The mandatory pre-sentence evaluation was passed 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05. Resolution No. 17-A-064, passed 6/12/17, amended this section number to fit into new Chapter 5.09 Driving a Motor Vehicle.]

5.09.03 Hit and Run of Unattended Car or Other Property

A person is guilty of hit and run of an unattended car or other property when, as operator of any vehicle that collides with any other vehicle or other property that is unattended, he or she fails to immediately stop and either locate and notify the owner or operator of the hit vehicle or other property or to leave written notice in a conspicuous place in or on the vehicle or other property. Notice shall consist of the name, address, and phone number of the person who was operating the vehicle that struck another vehicle or other property.

Hit and run of an unattended car other property is a Misdemeanor 1.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-064, passed 6/12/17. This section previously existed only in Title 9 as a civil offense. This code amendment made this section a criminal offense under new Chapter 5.09 Driving a Motor Vehicle.]

5.09.04 Hit and Run of an Attended Vehicle or Other Property

A driver of any vehicle involved in an accident resulting in the injury or death of any person or damage to any attended vehicle is guilty of hit and run of an attended vehicle or other property if he or she fails to do any of the following:



- a) Immediately stop at the scene of the accident or as close to it as possible without obstructing traffic more than necessary, and to remain at the scene of the accident until he or she has fulfilled the requirements of this section;
- b) Give his or her name, address, vehicle license number and driver's license number to any occupant or driver involved in the accident;
- c) Render reasonable assistance to any person injured in such accident. Compliance with this requirement shall not be evidence of the liability of any driver for such accident; and
- d) Notify the Port Gamble S'Klallam Tribal Police as soon as possible following the accident.

Hit and run of an attended vehicle or other property is a Felony 2.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-064, passed 6/12/17. This section previously existed only in Title 9 as a civil offense. This code amendment made this section a criminal offense under new Chapter 5.09 Driving a Motor Vehicle.]

#### 5.09.05 Operating a Motor Vehicle While Privilege is Suspended or Revoked

A person is guilty of operating a motor vehicle while privilege suspended or revoked if he or she operates a motor vehicle within the Port Gamble S'Klallam Tribe's jurisdiction while the privilege to do so has been suspended or revoked by the Tribal Court or by any other court of competent jurisdiction as part of a penalty imposed for any civil or criminal traffic violation or because the person failed to respond to a notice of civil traffic violation.

Operating a motor vehicle while privilege suspended is a Misdemeanor 2.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-064, passed 6/12/17. This section previously existed only in Title 9 as a civil offense. This code amendment made this section a criminal offense under new Chapter 5.09 Driving a Motor Vehicle.]

#### 5.09.06 Eluding a Law Enforcement Officer

A person is guilty of eluding a law enforcement officer who, while driving any motor vehicle, fails or refuses to immediately bring his or her own vehicle to a stop after being given a visible or audible signal by a law enforcement officer.

Eluding a law enforcement officer is a Felony 2.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-064, passed 6/12/17. This section previously existed only in Title 9 as a civil offense. This code amendment made this section a criminal offense under new Chapter 5.09 Driving a Motor Vehicle.]

5.09.07 Prohibited Use of Alcoholic Beverages in Vehicle

A person is guilty of prohibited use of alcoholic beverages in a vehicle if:

- a) He or she drinks any alcoholic beverages in a motor vehicle when the vehicle is upon a roadway;
- b) He or she has an open or unsealed receptacle containing an alcoholic beverage in his or her possession while in a motor vehicle or while the vehicle is upon a roadway; or
- c) He or she is the driver of a motor vehicle that is on a roadway and in which an open or unsealed receptacle containing an alcoholic beverage is present, unless the receptacle is kept in the trunk or other area of the vehicle that is not normally accessible to the occupants.

Prohibited use of alcoholic beverages in a vehicle is a Misdemeanor 2.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 17-A-064, passed 6/12/17. This section previously existed only in Title 9 as a civil offense. This code amendment made this section a criminal offense under new Chapter 5.09 Driving a Motor Vehicle.]

**Chapter 5.10 Sentencing**

5.10.01 Mandatory Alcohol and Drug Assessments

In any case where a person is found guilty of or pleads no contest to a criminal offense in the Port Gamble S'Klallam Community Court where the court determines alcohol and/or drugs may be a contributing factor to the commission of the crime, the court shall order a Pre-Sentence Drug and Alcohol Evaluation with a qualified Mental Health Counselor or Drug and/or Alcohol Counselor. The court shall require the person so convicted to return to court at the earliest possible date with the alcohol and drug evaluation and any alcohol and drug treatment plan that the counselor or mental health professional recommends. The Court shall order the person to follow a chemical dependency treatment plan. The Court may order a plan that is more extensive than the recommended plan. The Court may also order mental health treatment if recommended by an evaluation conducted by a Mental Health counselor.

[HIST: Source -Resolution No. 02 A 108, passed 12/17/02 amended this section. Port Gamble Business Committee Minutes, 6/14/88 Amended by Resolution 05-A-054, passed 6/14/05.]

5.10.02 Mandatory Sentencing for Driving While Under the Influence of Alcohol or Drugs

- a) In any case where a person is found guilty or pleads No Contest to a charge of Driving While Under the Influence of Alcohol or Drugs in

violation of section 5.03.01, shall be sentenced to the following minimum penalties:

- 1) Upon a first offense: Thirty (30) days in jail, of which at least twenty-four (24) consecutive hours are to be served, and a fine of \$250.
  - 2) Upon a second offense: Sixty (60) days in jail, of which at least four (4) consecutive days are to be served and a fine of \$500.
  - 3) Upon a third or subsequent offense: Six (6) months in jail, of which at least ten (10) consecutive days are to be served, and a fine of \$ 750. Upon conviction of a third or subsequent offense, the driving privileges of the person so convicted shall be revoked on the Port Gamble Reservation for a period not less than two years.
- b) The judge of the court may suspend jail time only on condition that the person complete any recommendations outlined in the Alcohol and/or Drug Treatment Plan described in section 5.07.01 of this code.
  - c) No portion of any of these minimum fines shall be suspended or otherwise not levied, except as provided in section 2.07.03 No portion of the minimum jail time required in paragraph (a) of this section shall be suspended or otherwise not served.

[HIST: Source - Port Gamble S'Klallam Business Committee Minutes, 6/14/88. Amended by Resolution 05-A-054, passed 6/14/05.]

#### 5.10.03 Determining the Sentence Within the Range

When considering the propriety of the ordering a particular sentence, the Court shall specifically consider the following factors and should increase the sentence above the minimum, within an offense classification range:

- a) The number of times the person has previously violated the Law and Order Code and the number of times the person has previously committed the particular violation before the court;
- b) Whether the offense was committed with a weapon or the use of a weapon was threatened;
- c) Whether a victim suffered bodily harm and the degree of harm and expected duration of disability, if any;
- d) Whether a victim experienced substantial emotional harm;
- e) The monetary value of any property damage; and

- f) Whether the harm caused by the defendant’s conduct was especially offensive or sensitive to the tribal community such as harm to an elder, the church, Longhouse, cemetery, Tribal buildings and facilities, or someone’s home.

Juvenile Fines. The court shall have the discretion to impose a monetary fine lower than the specified range for a particular offense, for a juvenile defendant only, if necessary to ensure that the juvenile has the ability to pay the fine, so that the burden of paying the fine falls on the juvenile.

[HIST: Source – Cross section 2.07.04 Restitution. Adopted by Resolution 05-A-054, passed 6/14/05.]

5.10.04 Classification of Offenses for Sentencing

The following are the ranges of fines for each class of offense:

<u>Class A</u>	<u>Class B</u>	<u>Class C</u>	<u>Class D</u>
“The Absolute Worst”	“Really Bad”	“Pretty Bad”	“Bad”
\$ 2,500 – 5,000 fine; or Jail up to one year; or both.	\$ 1,000 – 5,000 fine; or Jail up to one year; or both.	\$ 250 – 1,000 fine; or Jail up to six months; or both.	\$ 50 – 250 fine; or Jail up to 30 days; or both.

Misdemeanor 2	Misdemeanor 1	Felony 2	Felony 1
\$ 50 – 250 fine; or Jail up to 30 days; or both.	\$ 250 – 1,000 fine; or Jail up to six months; or both.	\$ 1,000 – 5,000 fine; or Jail up to one year; or both.	\$ 5,000 – 15,000 fine; or Jail up to three years; or both.

[HIST: Adopted by Resolution 05-A-054, passed 6/14/05. Amended by Resolution No. 17-A-010, passed 1/23/17 to create a Felony-Misdemeanor Sentencing chart that would match the new Chapter 5.07 on Sex Crimes. Resolution No. 17-A-064, passed 6/12/17, added chapters on Controlled Substances, Liquor, and Driving a Motor Vehicle to this sentencing chart. All other crimes still refer to the Sentencing Chart for Crimes Classes A-D. The Class A-D chart will be retired once all of the crimes in Title 5 are updated to reflect felony or misdemeanor crimes.]

## **Chapter 5.11 Drug Overdoes Immunity**

### 5.11.01 Drug Overdose Immunity

a) Any person or group of people who act in good faith and seek medical assistance, or who assist another in seeking medical assistance, for any person who is experiencing a drug-related overdose or other life-threatening medical emergency, and who reports all relevant information that is available as to the cause and circumstances of the drug-related overdose or life-threatening medical emergency, shall not be arrested or convicted for the following:

- 1) Contributing to the delinquency of an underage person;
- 2) Possession of narcotics or controlled substances;
- 3) Possession of drug paraphernalia;
- 4) A minor in possession of alcohol or a minor under the influence of alcohol;
- 5) Misdemeanor warrants for nonviolent crimes.

A person who experiences drug overdose or other life-threatening emergency shall not be arrested or convicted for the above crimes if the evidence for the above crimes was obtained as a result of the overdose or other need for medical assistance.

- c) The protections in subsection (a) of this section may be raised as an affirmative defense, or as grounds to suppress evidence obtained as a result of a report of a drug-related overdose or life-threatening medical emergency.
- d) Evidence obtained as a result of a report of a drug-related overdose or life-threatening medical emergency under the circumstances stated in subsection (a) of this section shall not serve as the sole basis for revoking or modifying a person's probation or supervision status, or as the basis for any probable cause finding to search the premises where such overdose or medical emergency occurs or to arrest any person who reports such overdose or medical emergency under the circumstances stated in subsection (a) of this section.
- e) For the purposes of this section, "drug-related" means an acute

medical condition that is the result of the ingestion or use by an individual of one or more controlled substances or one or more controlled substances in combination with alcohol, in quantities that are excessive for that individual that may result in death, disability, or serious injury.

- f) The protections in this section shall not be grounds for suppression of evidence in other criminal charges arising from circumstances related to a drug-related overdose or other life-threatening medical emergency.
- g) Nothing in this section shall prohibit arrest, prosecution, or conviction for any crime not listed herein. Additionally, nothing in this section shall prevent the seizure of any drugs or paraphernalia found at the scene of a drug-related overdose or other life-threatening emergency.

[HIST: The Port Gamble S’Klallam Tribe recognizes that fear of contact with the authorities is a main reason that drug overdose victims may not reach help and services in time during an overdose. The chance of surviving an overdose depends greatly on how fast one receives medical assistance, and The Tribe created this law in order to encourage persons to seek help during a drug overdose or other life-threatening emergency. This Chapter was adopted by Resolution 16-A-084, passed 6/27/16.]

**CRIMINAL CODE – CLASSIFICATION OF OFFENSES SUMMARIZED**

**Chapter 5.01 Offenses Against the Person**

5.01.01	Assault .....	A,B,C
5.01.02	Battery REPEALED	
5.01.03	Intimidation .....	D
5.01.04	Robbery .....	B
5.01.05	Criminal Homicide .....	A
5.01.06	Vehicular Homicide.....	A
5.01.07	Reckless Endangerment.....	C
5.01.08	Rape REPEALED (See Chapter 5.07)	
5.01.09	Indecent Liberties REPEALED (See Chapter 5.07)	
5.01.10	Abduction.....	A
5.01.11	Endangering the Welfare of a Child.....	B
5.01.12	Contributing to the Criminal Act of a Minor .....	C
5.01.13	Attempted Suicide REPEALED	
5.01.14	Stalking.....	C
5.01.15	Interference with the Reporting of Domestic Violence .....	C
5.01.16	Harassment .....	C
5.01.17	Exploitation of Vulnerable Adult .....	C

**Chapter 5.02 Property Related Offenses**

5.02.01	Trespass.....	D
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5.02.02	Vandalism/Unauthorized Use .....	C
5.02.03	Burglary .....	C
5.02.04	Theft .....	A, B, C
5.02.05	Receiving Stolen Property .....	C
5.02.06	Unlawful Dumping .....	C
5.02.07	Maintaining a Public Nuisance .....	C
5.02.08	Arson.....	B
5.02.09	Forgery.....	B
5.02.10	Fraud.....	B
5.02.11	Extortion.....	B

### Chapter 5.03 Controlled Substances

5.03.01	Definitions.....	None
5.03.02	Substances Illegal Without a Valid Prescription .....	None
5.03.03	Marijuana Possession and Use.....	Misdemeanor 1, 2
5.03.04	Marijuana Production, Processing, and Sale.....	Felony 2
5.03.05	Medical Marijuana .....	Misdemeanor 1
5.03.06	Penalties for Illegal Substances .....	Misdemeanor 1 - Felony 1
5.03.07	Possession or Use of Drug Paraphernalia .....	Misdemeanor 1
5.03.08	Delivery of Controlled Substances, Alcohol, or Marijuana to a Minor .....	Felony 2
5.03.09	Practice of Sniffing .....	Misdemeanor 1
5.03.10	Unauthorized Possession or Distribution of Prescription Drugs .....	Misdemeanor 1
5.03.11	Unauthorized Use of State Medical Marijuana Database .....	Felony 2

### Chapter 5.04 Offenses Against the Community Peace, Morals, Safety and Welfare

5.04.01	Reckless Driving.....	C
5.04.02	Disorderly Conduct .....	D
5.04.03	Gambling.....	C
5.04.04	Prostitution REPEALED (See Chapter 5.07)	
5.04.05	Carrying a Concealed Firearm.....	C
5.04.06	Firearm Violations .....	C
5.04.07	Cruelty to Animals, Dog Fighting Prohibited .....	C
5.04.08	Failure to Send Children to School.....	D
5.04.09	Failure to Control Animals .....	C
5.04.10	Violating Provisions of a Restraining Order or Protection Order ....	C
5.04.11	Harboring a Person Who is Excluded.....	C

### Chapter 5.05 Offenses Related to Administration of Tribal Government

5.05.01	Resisting Arrest .....	C
5.05.02	Obstructing a Public Officer .....	C
5.05.03	Refusing to Aid Officer .....	C
5.05.04	Intimidation of a Public Officer REPEALED	
5.05.05	Escape .....	C
5.05.06	Perjury .....	C

5.05.07	Intimidating a Juror .....	C
5.05.08	Intimidating a Witness .....	C
5.05.09	Tampering with a Witness.....	C
5.05.10	Tampering with Physical Evidence.....	C
5.05.11	Misuse of Funds .....	C
5.05.12	Official Misconduct.....	C
5.05.13	Bribery .....	C
5.05.14	Unlawful Arrest/False Charges .....	C
5.05.15	Assault of Police Dog .....	B
5.05.16	Failure to Appear/Bail Jumping.....	B

Chapter 5.06 Other Offenses

5.06.01	Violation of Tribal Ordinance .....	D
5.06.02	Criminal Attempt.....One degree below primary offense expect	D
5.06.03	Aiding and Abetting..... Same degree as primary offense	

Chapter 5.07 Rape—Sex Crimes—Public Indecency—Prostitution

5.07.01	Definitions	
5.07.02	Testimony—Evidence—Written Motion—Admissibility	
5.07.03	Defenses to Prosecution Under This Chapter	
5.07.04	Rape in the First Degree.....	Felony 1
5.07.05	Rape in the Second Degree .....	Felony 1
5.07.06	Rape in the Third Degree.....	Felony 2
5.07.07	Statutory Rape in the First Degree .....	Felony 1
5.07.08	Statutory Rape in the Second Degree.....	Felony 2
5.07.09	Statutory Rape in the Third Degree .....	Felony 2
5.07.10	Child Molestation.....	Misdemeanor 1
5.07.11	Abusive Sexual Touching .....	Felony 1
5.07.12	Public Indecency .....	Misdemeanor 1
5.07.13	Prostitution .....	Misdemeanor 2
5.07.14	Prostitution—Sex of Parties Immaterial	
5.07.15	Promoting Prostitution--Definitions	
5.07.16	Promoting Prostitution in the First Degree.....	Felony 1
5.07.17	Promoting Prostitution in the Second Degree .....	Felony 2
5.07.18	Permitting Prostitution.....	Misdemeanor 1
5.07.19	Sex Trafficking.....	Felony 1

Chapter 5.08 Liquor

5.08.01	Reference .....	None
5.08.02	Illegal Sale, Purchase, Possession of Liquor; Illegal Transfer or Use of I.D.....	Misdemeanor 1
5.08.03	Minor in Possession of Liquor .....	Misdemeanor 2
5.08.04	Minor Consuming Liquor.....	Misdemeanor 2
5.08.05	Delivery of Liquor to a Minor .....	Felony 2
5.08.06	Social Host Liability.....	Felony 2
5.08.07	Opening or Consuming Liquor in a Public Place.....	Misdemeanor2



5.08.08 Intoxication in a Public Place—Nuisance..... Misdemeanor 2

Chapter 5.09 Driving a Motor Vehicle

- 5.09.01 Driving While Under the Influence of Intoxicating Liquor or Drugs or Glue ..... Misdemeanor 1 – Felony 1
- 5.09.02 Reckless Driving..... Misdemeanor 1
- 5.09.03 Hit and Run of Unattended Car or Other Property... Misdemeanor 1
- 5.09.04 Hit and Run of an Attended Vehicle or Other Property. .... Felony 2
- 5.09.05 Operating a Motor Vehicle While Privilege is Suspended or Revoked ..... Misdemeanor 2
- 5.09.06 Eluding a Law Enforcement Officer..... Felony 2
- 5.09.07 Prohibited Use of Alcoholic Beverages in Vehicle. .... Misdemeanor 2

**Exhibit C**

**Producer/Processor Location Legal Description**

**Exhibit C**

**Legal Description**

**Port Gamble S’Klallam Tribe**

**Marijuana Production/Processing Operations**

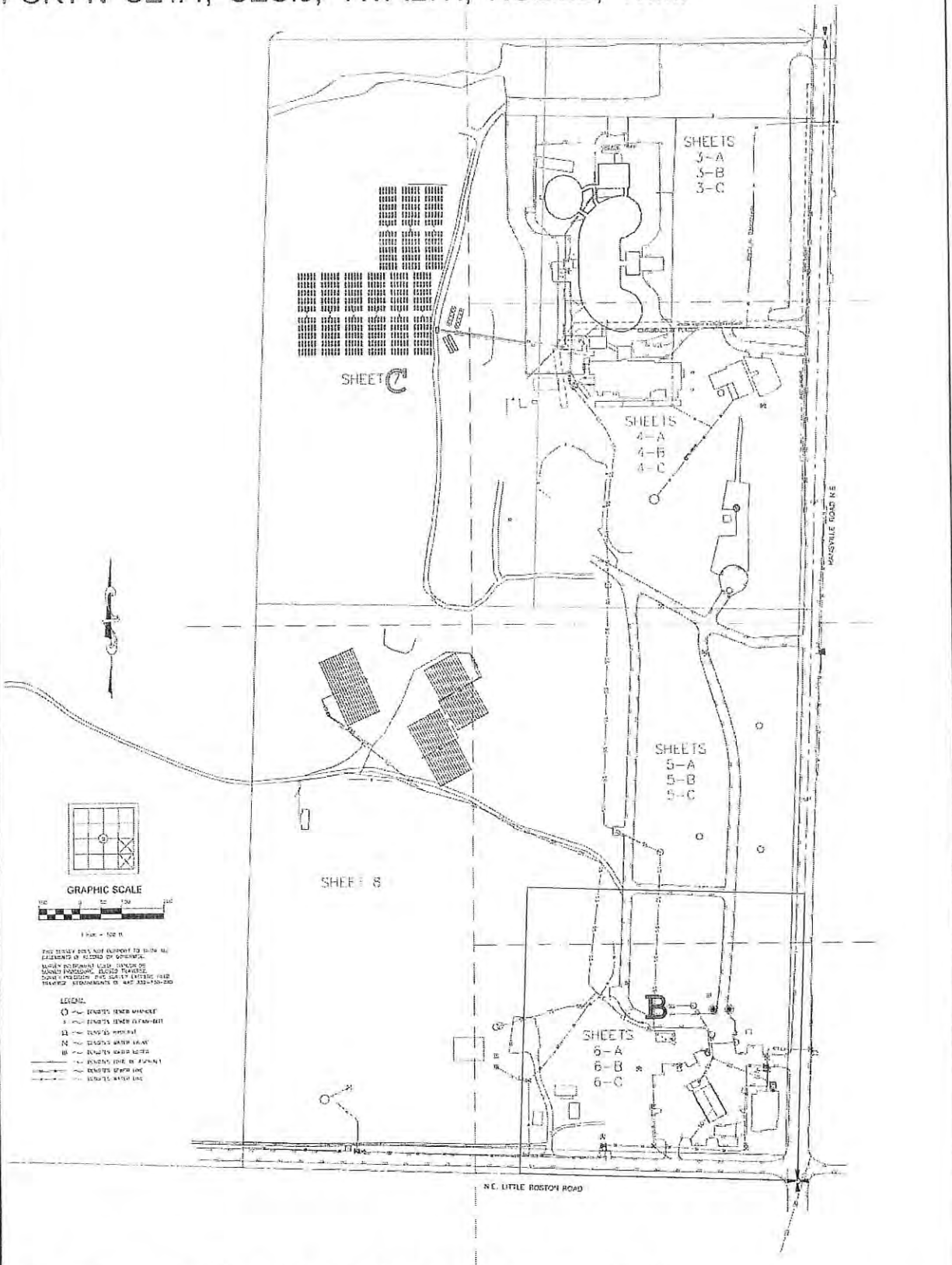
The East Half of the North Half of the East Half of the Southeast Quarter of Section 9, Township 27 North, Range 2 East, Willamette Meridian.

Situate in the County of Kitsap, State of Washington.

**Exhibit D**

**Port Gamble S’Klallam Tribe Property Parcels**

Exhibits Page 86 of 86  
 PORT'N SE1/4, SEC.9, TWP.27N, RGE.2E, W.M.



**GRAPHIC SCALE**  
 1 inch = 100 ft

THIS SCALE DOES NOT APPLY TO THE NE LEASERS OR EASEMENTS OF ANYWHERE.  
 WORKSHEET FOR: NOO-KAYET DEVELOPMENT CORP.  
 SHEET: SHEET C

**LEGEND:**  
 (O) - EASEMENT FROM WORKSHEET  
 (E) - EASEMENT FROM WORKSHEET  
 (N) - EASEMENT FROM WORKSHEET  
 (B) - EASEMENT FROM WORKSHEET  
 (S) - EASEMENT FROM WORKSHEET  
 (W) - EASEMENT FROM WORKSHEET  
 (SEWER) - EASEMENT FROM WORKSHEET  
 (WATER) - EASEMENT FROM WORKSHEET

TOTAL PARCEL BUILDINGS, ROADS, WATER & SEWER

# 20227 SHT 2	WORKSHEET FOR: <b>NOO-KAYET                  DEVELOPMENT CORP.</b>	DESIGNED: _____ DATE: _____ DRAWN: _____ DATE: _____ CHECKED: _____ DATE: _____ FIELD BOOK: _____	SCALE: _____ DATE: _____		
	<b>CASCADE SURVEYING &amp; ENGINEERING, INC.</b> Engineers, Surveyors, Planners P.O. BOX 222      P.O. BOX 222      P.O. BOX 222 425-232-2323      425-232-2323      425-232-2323 WWW.CASCADESURV.MT.RM      WWW.CASCADESURV.MT.RM      WWW.CASCADESURV.MT.RM				