

Article XV. Trespass, Expulsion and Exclusion from the Quileute Indian Reservation

15.00 Purpose

In addition to Tribes having the inherent right to determine who may and may not be on Tribal land, the Constitution of the Quileute Tribe in § IV (g) states that Tribal Council has the authority “to exclude from the territory of the Tribe persons not legally entitled to reside thereon, or trespassers upon the reservation, under ordinances”. The Quileute Tribe has the right to protect the community, Tribal values and customs and the land by Trespassing and/or excluding those who do not respect the culture, values, customs or may pose a risk to the community or land.

15.01 Trespass

1. Who may be trespassed

- a. Any person may be trespassed from the Quileute Reservation, all other Quileute Tribal owned lands or businesses and Quileute Tribal trust land. The exceptions being a person authorized by federal law to be present on tribal land and owners of non-trust land may not be excluded from the land in which they own.

2. Grounds for Trespass

- a. The Quileute Tribe may trespass a person:
 - i. for any violation of a Tribal Ordinance, Code, Regulation or Resolution (regardless if they are prosecuted)
 - ii. for any violation of a State, Federal or Local Law (regardless if they are prosecuted)

3. Enforcement of a Trespass

The La Push Police Department: The La Push Police Department may immediately remove and trespass any person whom La Push Police Department deems necessary to be trespassed. The removal will be completed by the La Push Police Department and/or with the assistance of other law enforcement agencies when necessary.

4. Length of Trespass

A trespass notice will be for a term not to exceed 1 year. If the Tribe wishes to ban someone from the Reservation, all other Quileute Tribal owned lands or businesses and Quileute Tribal trust land for longer than 1 year, they must file for an exclusion.

5. Notice of Trespass

- a. The Notice of Trespass will be issued and served by Law Enforcement.
- b. Service
 - i. Immediate / Direct removal and Trespass
Service by law enforcement will either be immediately completed if the person is directly removed from the Quileute Reservation, all other Quileute Tribal owned lands or businesses and/or Quileute Tribal trust land by law enforcement and trespassed. The immediate removal and service will be completed by the La Push Police Department with the assistance of other law enforcement agencies when necessary.

ii. All other Notices of Trespass

Service of a notice of trespass, if not immediately trespassed and removed, will be completed by the La Push Police Department with the assistance of other law enforcement agencies when necessary.

c. The Notice shall contain the following:

- i. Name of Individual to be trespassed and any other additional identifying information such as Date of Birth, Tribal ID number, etc.
- ii. date of trespass and length of trespass
- iii. brief description of reason for trespass
- iv. location trespassed from, if trespassed from a specific location versus entire Reservation, then the Notice must specify.

5. Appeals

Enrolled Quileute Tribal Members have the right to appeal a trespass against them personally. In order to appeal a trespass, the Quileute Tribal Member must file an appeal with Tribal Council. The appeal must be filed within 14 days of the trespass notice. Quileute Tribal Council will review all documentation filed and make a determination regarding the appeal within 14 days of the appeal. Tribal Council's decision is final.

6. Violation of the Trespass Notice

If someone violates a notice of trespass, they may be charged with criminal trespass or a similar offense under the State (RCW), Federal law or Tribal law. The individual will also either be arrested or escorted off the Quileute Reservation, all other Quileute Tribal owned lands or businesses and/or Quileute Tribal trust land by law enforcement (La Push Police Department and/or other law enforcement agency).

15.02 Exclusion

1. Who May be excluded

Any person may be trespassed from the Quileute Reservation, all other Quileute Tribal owned lands or businesses and/or Quileute Tribal trust land. The exceptions being a person authorized by federal law to be present on tribal land and owners of non-trust land may not be excluded from the land in which they own.

2. Grounds for Exclusion

a. Non-Member

Non-members may be excluded for commission of one of more of the following acts within the exterior boundaries of the Quileute Indian Reservation:

- i. Entering an area of the Quileute Indian Reservation in violation of any order of the Tribal Council designating such area as closed because of fire hazard or for any other reason.
- ii. Failure or refusal to pay any taxes, rents or other charges justly due the Quileute Indian Tribe after reasonable notice and opportunity to pay.
- iii. Unauthorized cutting of timber or vegetation.
- iv. Any act causing physical loss or damage of any nature to tribal property or property of any enrolled member or resident.
- v. Commission of a crime as proscribed by state or federal law regardless of whether they are prosecuted.

- vi. Violation of any tribal ordinance, regulation, resolution, policy, or the Law and Order Code regardless of whether they are prosecuted.
- vii. Aiming or discharging any firearm including but not limited to airsoft guns or bb guns within the exterior boundaries of the reservation unless for an allowable purpose.
- viii. No possession of firearms on the Reservation without first obtaining clearance from La Push Police Department pursuant to the Quileute Law and Order Code.
- ix. Immorality
 - x. Entry into any Quileute home without consent of the occupant or occupants.
 - xi. Unauthorized taking of any property from the Reservation
 - xii. Unauthorized prospecting.
- xiii. Causing disturbances of celebrations or ceremonies within the Reservation;
- xiv. Photographing or tape recording any ceremony without permission of the participants, or otherwise violating restrictions on the observation of or participation in a ceremony;
- xv. Failing to comply with State or Federal civil laws applicable within the Reservation;
- xvi. Evading arrest or prosecution for an offense committed in another jurisdiction;
- xvii. Failing to comply with any legal process, notice, subpoena, order or other decree issued by the Tribal, State, Local or Federal Court.
- xxviii. Removing or attempting to remove any child without proper authority;
- xix. Threatening or causing harm to persons or property on the Reservation;
- xx. Disturbing or destroying gravesites, artifacts or other sites and objects of historical or anthropological value without authorization from the Tribe.
- xxi. Possession of, taking or causing harm to natural resources within the Reservation without legally required authorization;
- xxii. Hunting, fishing, trapping, timber (including Christmas tree) cutting within the Reservation without legally required authorization;
- xxiii. Registered sex offenders or persons required to register as a sex offender;
- xxiv. Interference or threats to interfere with the governmental operations or business activities of the Tribe;
- xxv. Failing to obtain a required Tribal license or permit;
- xxvi. Inducing any member of the Tribe to enter into an unlawful or grossly unreasonable contract of any nature;
- xxvii. Defrauding any member of the Tribe for just compensation for labor or service done at the request of a nonmember;
- xxviii. Repeated harassment of members of the Tribe, Tribal officials or Tribal employees;
- xxix. Failing to comply with any Tribal law, policy or contractual obligation regarding employment practices;
- xxx. Unauthorized removal or attempt to remove Tribal property or property of members;
- xxxi. Public drunkenness or drug abuse/use, or other breaches of the peace;
- xxxii. Holding for sale, possession with intent to manufacture, cultivate or deliver, unlawful delivery, selling or manufacturing of controlled substances;

- xxxiii. Use, possession or sale of any drug, narcotic drug or controlled substance as defined by State, Federal or Tribal law.
- xxxiv. Threatening, causing harm, exploiting or otherwise taking advantage of a child, vulnerable adult or an elder or their property.
- xxxv. Being infected with a contagious or infectious disease which creates a public health hazard or intentionally infecting someone else with a contagious or infectious disease.
- xxxvi. Any other objectionable behavior or condition found by the Tribal Court to be sufficient cause of expulsion; provided, that the person has been first advised of the objection and nevertheless continues the misconduct or condition;
- xxxvii. Any action tending to bring the Quileute Indian Tribe or the Tribal Council disrepute.

b. Enrolled Quileute Tribal Member

- i. Entering an area of the Quileute Indian Reservation in violation of any order of the Tribal Council designating such area as closed because of fire hazard or for any other reason.
- ii. Commission of a crime as proscribed by state or federal law.
- iii. Violation of any tribal ordinance, regulation, resolution, policy, or the Law and Order Code regardless of whether they are prosecuted.
- iv. Immorality
- v. Evading arrest or prosecution for an offense committed in another jurisdiction;
- vi. Failing to comply with any legal process, notice, subpoena, order or other decree issued by the Tribal, State, Local or Federal Court;
- vii. Removing or attempting to remove any child without proper authority;
- viii. Threatening or causing harm to persons or property on the Reservation;
- ix. Disturbing or destroying gravesites, artifacts or other sites and objects of historical or anthropological value without authorization from the Tribe.
- x. Registered sex offenders or persons required to register as a sex offender;
- xi. Repeated Public drunkenness or drug abuse/use, or other breaches of the peace;
- xii. Holding for sale, possession with intent to manufacture, cultivate or deliver, unlawful delivery, selling or manufacturing of controlled substances;
- xiii. Use, possession or sale of any drug, narcotic drug or controlled substance as defined by State, Federal or Tribal law.
- xiv. Threatening, causing harm, exploiting or otherwise taking advantage of a child, vulnerable adult or an elder.
- xv. Being infected with a contagious or infectious disease which creates a public health hazard or intentionally infecting someone else with a contagious or infectious disease.
- xvi. Any other objectionable behavior or condition found by the Tribal Court to be sufficient cause of expulsion; provided, that the person has been first advised of the objection and nevertheless continues the misconduct or condition;
- xvii. Any action tending to bring the Quileute Indian Tribe or the Tribal Council disrepute.

15.03 Motion for an Exclusion and Notice of Proposed Exclusion

1. Who may initiate and file a Motion for an exclusion?

- a. The Tribal Attorney's Office / Prosecutor must obtain approval from Tribal Council prior to initiating an exclusion proceeding.
- b. Tribal Council may also request that the Tribal Attorney's Office / Prosecutor initiate an exclusion proceeding.

2. Motion.

Once approval is obtained or Tribal Council requests that a proceeding be initiated, the Tribal Attorney's Office/Prosecutor shall file a motion with supporting documentation in the Tribal Court. A hearing date will then be issued by the Tribal Court for the proposed exclusion.

3. Notice.

Law Enforcement (La Push Police Department and/or other law enforcement agency) shall serve the notice personally. If personal service cannot be accomplished, the Tribal Court shall provide notice of a hearing by registered mail. If notice cannot be served either personally or via registered mail, a request shall be made to the Court for service by publication.

- a. The notice shall include:
 - i. the name of the individual to be excluded (include any available identifying information.)
 - ii. reason for the proposed exclusion
 - iii. time and place where they may appear before the Tribal Court.

15.04 Hearing on Exclusion Before Tribal Court

- 1 After notice has been served or published for the proposed exclusion, the Tribal Court shall hold a hearing to decide whether the person shall be excluded.
- 2 The hearing shall be no less than 5 days after service of the notice, mailing of the notice or publication date, whichever is later. However, if the Judge has reasonable cause to believe an emergency exists, and the notice so states, the hearing may be held after twenty-four hours from the time of service, mailing or publication date whichever is later.
- 3 The person shall be given an opportunity to present his defense at such hearing and may be represented by an attorney at their own expense.
- 4 The Tribal Court may, in its discretion, grant a continuance of the hearing if good cause is found.
- 5 If the person being excluded does not appear, the Tribal Court must order them excluded from the Quileute Reservation, all other Quileute Tribal owned lands or businesses and/or Quileute Tribal trust land.
- 6 If during the hearing, it is found that cause does exist for exclusion, the Tribal Court shall order them excluded from the Quileute Reservation, all other Quileute Tribal owned lands or businesses and/or Quileute Tribal trust land, or may permit them to remain upon the Reservation on such conditions as the Tribal Court sees fit to impose.
- 7 All orders of exclusion shall remain in full force until revoked by the Tribal Court unless the order specifically provides otherwise.

15.05 Appellate Proceedings

Any person appearing at such hearing who is aggrieved by the decision of the Tribal Judge shall have the right to appeal such decision as prescribed in Article III of this Code.

15.06 Proceedings for Enforcement of Orders of Exclusion

If any person ordered excluded from tribal land by the Tribal Court does not promptly obey the order, they may be removed by law enforcement.

15.07 Physical Removal of Trespassers

In cases where a person has been trespassed, excluded or in cases involving immediate danger to the life, health, moral or property of the tribe, or any of its members, and where delay would result in irreparable damage, The person may be removed immediately by law enforcement. The law enforcement officer removing the person shall use only so much force as it necessary to remove the person.

If a crime has been committed, such as criminal trespass, the person may be charged with said crime by the law enforcement agency in which has jurisdiction over the person.

15.08: Funerals, healthcare appointments and Court appearances.

1. Funerals. A Trespassed and/or Excluded person may come onto the Quileute Reservation to attend a funeral of an immediate family member if they file a motion and obtain an order granting temporary permission. The motion must be filed at least 5 days prior to the date being requested unless emergent circumstances exist and 5 days is not possible.
2. Healthcare appointments. A Trespassed and/or Excluded person may come onto the Quileute Indian Reservation to attend court if they file a motion and obtain an order granting temporary permission. The motion must be filed at least 5 days prior to the date being requested unless emergent circumstances exist and 5 days is not possible.
3. Court Appearances. A Trespassed and/or Excluded person may come onto the Quileute Indian Reservation to attend court if they file a motion and obtain an order granting temporary permission. The motion must be filed at least 5 days prior to the date being requested unless emergent circumstances exist and 5 days is not possible.

15.09 Business on the Reservation.

1. Persons who are trespassed and/or excluded shall not be allowed to conduct business with the Tribe or any tribal entity, or operate or conduct any other business or business activities within the exterior boundaries of the Reservation. Business activity (or business activities) is defined as having ownership or financial interest in the goods and services being provided and as defined by TERO.

15.10 Seizures related to the crime of trespass and/or violation of an exclusion order.

1. The following shall be subject to forfeiture to the Quileute Tribe and no property right shall exist in them:
 - a. All conveyances, vessels of which legal title is held by the trespassed or excluded person, which are used, or are intended for use, for transportation of a person trespassed or excluded on restricted land.

15.11 Nonwaiver of sovereign immunity.

1. Nothing in this chapter shall be deemed to constitute a waiver by the Quileute Tribe of its sovereign immunity for any reason whatsoever.