

EXCLUSION AND REMOVAL CODE

CONFEDERATED TRIBES
OF THE
UMATILLA INDIAN RESERVATION

EXCLUSION AND REMOVAL CODE

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EXCLUSION AND REMOVAL CODE

CHAPTER 1. GENERAL PROVISIONS

SECTION 1.01. PURPOSE

From time to time it becomes necessary to exclude individuals from the Indian country of the Confederated Tribes of the Umatilla Indian Reservation in order to protect the health and safety of individual tribal and community members or to ensure the continued political integrity, economic security, property, or welfare of the government itself. This code provides the process by which, and conditions under which, civil exclusion and removal orders may be issued by the court. This code applies to both Indians and non-Indians alike.

CHAPTER 2. EXCLUSION AND REMOVAL PROCEDURE

SECTION 2.01. GROUNDS

- A. A person is subject to exclusion and removal by order of the court if they commit an act that:
1. Substantially threatens the health or safety of a person that resides, works, or goes to school within the Confederated Tribes' Indian country; or
 2. Threatens the political integrity, economic security, or welfare of the tribal government; or
 3. Results in damage or destruction to property belonging to the tribal government; or
 4. Results in serious damage or destruction to natural resources within the Confederated Tribes' Indian country; or
 5. Results in significant damage to the property of any person residing within the Confederated Tribes' Indian country; or
 6. Constitutes a repeated trespass on land owned by the tribal government; or
 7. Threatens the public safety of the Confederated Tribes' Indian country or community members such as drug activity, gang activity, sex trafficking, drive-by shootings, unlawful discharge of a firearm, felony assault, or other repeated criminal conduct, or otherwise invite, incite, or permit others to commit such acts within the Confederated Tribes' Indian country.
- B. In determining whether a person is subject to exclusion and removal, the court shall consider the number and pattern of acts committed and the history, circumstances or significance of each act.

SECTION 2.02. PROSECUTOR MAY BRING AN ACTION

The Tribal Prosecutor or an attorney with the Office of Legal Counsel is authorized to bring an action under this code on behalf of the tribal government.

SECTION 2.03. TRIBAL COURT PROCEEDINGS AND APPEALS

- A. An action under this code shall be initiated by the filing of a complaint along with any supporting affidavits or other documentation relevant to the matter.
- B. The party filing the complaint shall serve the individual subject to the exclusion and removal action with a copy of the filed complaint and accompanying documents along with a notice of the hearing date within 10 days of the scheduled hearing, unless an emergency exists. Proof of

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As Amended through Resolution No. 19-039 (June 3, 2019)*

personal service or service by certified mail shall be filed with the court prior to a hearing on the matter.

- C. In the event of an emergency, in the court's discretion, a hearing may be held after 24 hours of the filing and service of a complaint and notice of hearing.
- D. The burden of proof shall be on the party seeking exclusion and removal, which burden shall be a preponderance of the evidence.
- E. Any person responding to a complaint for exclusion and removal has a right to have an attorney present at a hearing at their own expense. The respondent shall also have the right to present relevant evidence and witnesses on their behalf to rebut the allegations, and shall have the right to cross examine any witnesses that may be called by the government.
- F. If the respondent has been served with proper notice of the hearing and does not appear, the court may issue a default order of exclusion and removal or continue the matter to a later date, in the court's discretion.
- G. All court proceedings under this code shall be recorded.
- H. If, after a hearing, the court finds by a preponderance of the evidence that the respondent has committed an act falling within Section 2.01, the court may issue an order of exclusion and removal.
- I. An order of exclusion and removal shall include the basis upon which the court finds the respondent is subject to such an order and shall expressly state the duration of the order. If an order issues from the court without an end date, it is presumed to be valid for one year from the date of issuance.
- J. The court may defer or suspend the issuance of an order and permit the respondent to remain upon the Indian country of the Confederated Tribes on conditions as the court may specifically prescribe. If the respondent violates a condition of the deferred or suspended order, the Tribal Prosecutor or an attorney with the Office of Legal Counsel may file a motion to impose the exclusion and removal order. The court may also, on its own motion and without hearing, impose the deferred or suspended order if it finds the respondent to have violated a condition of the deferred or suspended order.
- K. All orders issued under this code shall be forwarded to the Tribal Police Department. In the event of a default order, the Tribal Police Department shall make reasonable efforts to serve the respondent in person, and if unsuccessful, serve the defendant by certified mail. Proof of service shall be filed with the court.
- L. Any person upon whom an order has been issued as provided in this code may appeal such order to the Court of Appeals within 30 days of its issuance. The basis for appeal shall only be for abuse of discretion, lack of jurisdiction, or violation of the Indian Civil Rights Act. Notice of any appeal shall be provided to the Tribal Prosecutor and the Office of Legal Counsel within 5 days of filing the appeal.

CHAPTER 3. ENFORCEMENT

**SECTION 3.01. CRIMINAL AND CIVIL CAUSES OF ACTION; IMMEDIATE REMOVAL;
REFERRAL**

- A. Any violation of an order issued under this code, where the person does not have a prior conviction for violating an order of exclusion and removal, shall be a misdemeanor.
- B. Any violation of an order issued under this code, where the person has previously been convicted of violating an order of exclusion and removal, shall be a felony.

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- C. Any violation of an order issued under this code by a non-Indian shall be deemed a civil infraction subject to a fine of \$15,000.
- D. Any person found to be present in the Indian country of the Confederated Tribes in violation of an order of exclusion and removal shall be subject to immediate removal by the Tribal Police. In such event, the Tribal Police shall also refer the matter to the Tribal Prosecutor and State or Federal prosecutor's office as appropriate.

APPENDIX A

LEGISLATIVE HISTORY

COURT CODE

LEGISLATIVE HISTORY

The Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation originally enacted this statute under the name "Exclusion and Removal Code." See Board Resolution No. 19-039 (June 3, 2019). The purpose of the Code is to provide a court action for the exclusion and removal of individuals whose actions have been seriously detrimental to the Confederated Tribes, its community, its members, or its property and natural resources.