

CHAPTER 3-2 EXCLUSION AND REMOVAL

3-2-1 Purpose

The Colville Tribes shall be authorized to exclude non-members from the Reservation and to determine conditions upon which they may remain. It is the purpose of this Chapter to provide for exclusion and expulsion of non-members from the Reservation who act in disregard of tribal law, destroy-tribal fish and game, trespass upon tribal trust property pollute tribal lands and waters, destroy-real and personal property of the Tribes or its members or endanger the lives of members on the Reservation to the harm of the natural social and psychological well-being of members or other persons on the Reservation.

3-2-2 Definitions

(a) "Exclusion and removal" means the temporary or permanent expulsion of an individual from within the boundaries of the Colville Reservation.

(b) "Fraud" means a false representation of a matter of material fact by words, conduct, false or misleading allegations, or by concealment of a fact which should have been disclosed which is intended to and does in fact deceive another to his legal injury or detriment.

3-2-3 Persons Subject to Exclusion and Removal

Except as provided by this section, all persons, except those authorized by federal law to be present on tribal land may be excluded or removed from the Colville Reservation or parts thereof. Any person having an interest in real property on the reservation, may be excluded from any portion of the reservation as long as he is not denied access to or the use of such property.

3-2-4 Grounds for Exclusion and Removal

(a) In addition to any remedy or penalty provided by this Code, a person subject to removal and exclusion under this Chapter may be subject to a civil proceeding for exclusion or removal from the Colville Reservation if his conduct substantially threatens or has some direct effect on the political integrity, institutional process, economic security or health or welfare of the Colville Confederated Tribes, its members or reservation residents. In determining whether to issue an order of exclusion, the Court shall consider the number and pattern of acts committed and the history, circumstances and/or significance of each act. Acts for which an individual may be excluded from the reservation may include but are not limited to the following:

- (1) Doing or attempting to do any act upon the reservation which unlawfully threatens the peace, health, safety, morals or general welfare of the Tribes, its members, or other persons;
- (2) Any act causing serious physical loss or damage of any nature to the property of the Tribes or any reservation resident;
- (3) Entering an area in violation of any order of the Business Council designating such area as closed;
- (4) Failing or refusing to pay any taxes, rents or other charges justly due the Colville Confederated Tribes or any entity of the Tribes, after reasonable notice and an opportunity to pay, unless such charges or fees are related to an interest in real property;
- (5) Mining, prospecting, cutting timber or vegetation or other use, abuse, taking of or damage to tribal property without authorization;
- (6) Committing a fraud;
- (7) Trading or conducting business within the reservation in violation of tribal law;
- (8) Hunting, fishing or trapping without lawful authority or permission or in violation of tribal or federal law;

(9) Disturbing or excavating items, sites or locations of religious, historic or scientific significance without the authority of the Tribes or in violation of tribal or federal law;

(10) Failing to obey an order of the Tribal Court; or

(11) Committing any criminal offense as defined by state, federal or tribal law.

3-2-5 Proceedings for Exclusion

Subject to this section, the Tribal Prosecutor may bring an exclusion action pursuant to this Chapter on behalf of the Tribes by filing a complaint in Tribal Court. Before filing such complaint, the prosecutor shall cause any proposed exclusion and removal to be investigated sufficiently to determine whether an action under this Chapter shall be filed on behalf of the Tribes and shall obtain the approval of the Business Council. The filing of a complaint under this Chapter shall constitute a civil cause of action.

3-2-6 Hearing on Exclusion and Removal

(a) Unless otherwise provided by this Chapter and upon the filing of a complaint for exclusion and removal, the procedures for civil actions under this Code shall apply. If the Tribal Court shall have reasonable cause to believe that an emergency exists, and the notice so states, an exclusion and removal hearing under may be held after twenty-four (24) hours from the time of service or mailing whichever is later.

(b) The burden of proof shall be upon the Tribal Prosecutor to prove by a preponderance of the evidence that the respondent committed one or more of the acts set forth in this Chapter. If the respondent is found to have committed such act(s), the Court shall issue an order of exclusion and removal which shall include the duration of the exclusion. If an order of exclusion and removal is issued, the court may defer or suspend the order and permit the respondent to remain upon the reservation on such conditions as the court may prescribe. If the respondent is not present at such hearing or if a decision is not rendered until after the hearing, appropriate notice shall be served on the respondent in the manner provided above informing him of the action of the Tribal Court and such notice shall include a copy of any order issued under this section. An order issued under this section shall remain in force for the duration provided in the order or, unless the order specifically provides otherwise, until revoked by the court or the Business Council.

3-2-7 Appeals

Any person upon whom an order is issued as provided in this Chapter may appeal such order to the Colville Court of Appeals as provided by this Code.

3-2-8 Enforcement of Orders of Exclusion and Removal

(a) Any person who does not obey an order of exclusion or assists another person in violating an order of exclusion issued by the Tribal Court pursuant to this Chapter shall be in violation of this Code for which the court may issue one or more of the following orders:

(1) Direct any tribal police officer to remove the respondent from the reservation or portions of the reservation covered by the exclusion order at the respondent's expense;

(2) Direct any tribal police officer to prevent the respondent from reentry onto any reservation lands covered by the exclusion order for so long as the order remains in effect;

(3) Refer the matter to the Superintendent of the Colville Indian Agency and/or the United States Attorney for appropriate action; or

(4) Prosecute the respondent and/or take any other action authorized under any applicable Tribal, Federal or State law.

(Chapter enacted-original code 5/7/79)