

CHAPTER 9-4 INTERFERENCE WITH TRIBAL AND INDIAN PROPERTY

9-4-1 Definitions

- (a) "Owner" means the person having title to any property.
- (b) "Property" or "tribal property" includes any real or personal property owned by the Tribes or members thereof and any property under the care, custody and control of a tribal member which is owned by the Tribes and shall not include any property subject to the Uniform Commercial Code under Title 12.
- (c) "Tribal lands" mean any land owned in fee by the Confederated Tribes of the Colville Indian Reservation and land held in trust for the Tribes or individual members of the Tribe by the United States government.
- (d) "Interfere" means to take, possess, seize, impound or otherwise take actual or constructive control of tribal property, without a tribal court order or permission of the owner.
- (e) "Custodian" means any person having care, custody and control of property as defined herein.
(Certified 6/2/11, Resolution 2011-342)

9-4-2 Interference Prohibited

- (a) Any person who interferes with tribal property located on tribal lands without a tribal court order shall be guilty of an offense and such interference is hereby prohibited.
- (b) A violation of this Chapter shall be punishable by a \$500.00 fine or six months in the tribal jail or both, or by exclusion from tribal property as provided herein.
- (c) In addition to the above remedies, duly authorized tribal law enforcement officers may take immediate possession of any property taken, seized, possessed or impounded by any person without proper tribal court order and return same immediately to the owner or custodian thereof.
- (d) In addition to any other remedies provided herein or in the procedures for exclusion under this Code, any tribal law enforcement officer may immediately exclude and remove from tribal lands any person attempting to possess tribal property without a valid order of the Tribal Court as provided in this Chapter, upon such attempted possession having taken place in the presence of such tribal law enforcement official or such official having reasonable cause to believe that such attempt at possession has taken place. Before any such exclusion shall become final, however, compliance with the exclusion provisions of this Code must be met. Emergency procedures provided for herein may be complied with, anything in the exclusion provisions of this Code not withstanding.

9-4-3 Procedure for Possession of Property

- (a) Any person who wishes to take, possess, seize or impound any tribal property may do so only pursuant to duly issued order of the Tribal Court upon application made as provided herein.
- (b) Any person wishing to possess tribal property shall apply for an order to the Tribal Court stating the reasons and authority for such possession in writing, identifying the property, its location and owner or custodian of the property to the best of applicants knowledge. Such application may be ex parte and the Tribal Court may grant or deny the application or set the matter for hearing as provided by this Chapter.

9-4-4 Summary Issuance of Order

- (a) The tribal court may summarily grant the application and issue an order allowing possession of the property only when the nature of the claim, the amount thereof, the grounds relied upon for issuance of the order, and the need for immediate possession clearly appear from specific facts shown by verified petition or separate affidavit of the petitioner, his counsel or agent. The court in

its discretion may require security for the payment of damages to the owner if the order has been wrongfully obtained.

(b) In the event that an order is issued, notice thereof shall be given by the petitioner to the owner and custodian of the property within two days from the issuance of such order and the owner and custodian shall have five (5) days exclusive of the day of service to petition the court for dissolution of the order. Upon such a contradictory petition being filed the court shall set the matter for hearing in not less than three (3) days nor more than six (6) days.

9-4-5 Issuance Upon Hearing

If it appears to the court that an immediate order is not necessary without an opportunity for the owner and custodian of the property to be heard, the court shall order a hearing on the matter and the petitioner shall give at least two (2) days' notice thereof to the owner and custodian of the property, such hearing to be held not less than three (3) days nor more than six (6) days after the presentation of the application.

9-4-6 Summary Denial of Order

If the application is summarily denied, the applicant may request a hearing at which the facts and reasons for the requested possession may more fully be set forth. Upon such request the tribal court shall set such a hearing for a time not less than three (3) days nor more than six (6) days after such request. The petitioner shall give at least two (2) days' notice of such hearing to the owner or custodian of the property in question.

9-4-7 Production of Court Order

Any person attempting to possess any tribal property as provided herein shall show the owner or custodian of such property, or any tribal law enforcement officer, the order of the tribal court allowing such action before attempting such possession.

9-4-8 Court Decisions Final

The decision of the Tribal Court as to the issuance of the order permitting taking or possession may be appealed to the Court of Appeals pursuant to the Colville Tribal Code. Any decision of the Court of Appeals shall be final.

(Amended 9/2/10, Certified 9/9/10, Resolution 2010-648)

9-4-9 Miscellaneous

In any hearing set by the Tribal Court in a matter covered by this Chapter, any party may be represented by a spokesman provided such person comply with the applicable provisions of this Code.

(Chapter 9-4 Adopted 1/20/75, Resolution 1975-41)