

## TITLE 5. SPECIAL PROCEEDINGS

### Chapter 5.4

#### EVICTION

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**5.4.1. Title.** This chapter shall be known as the “Eviction Procedures Ordinance” for the Suquamish Tribe of the Port Madison Indian Reservation. (Res. 82-005 §1, passed Jan. 14, 1982)

**5.4.2. Jurisdiction.** The provisions of this chapter apply to all persons and property subject to the governing authority of the Tribe as established by the tribal Constitution and by the laws of the United States. (Res. 82-005 §2, passed Jan. 14, 1982)

**5.4.3. Definitions.** (a) “Tribe” shall refer to the Suquamish Tribe of the Port Madison Indian Reservation as defined in the tribal Constitution.

(b) “Tribal Court” shall mean the Tribal Court as established by the laws of this Tribe or such body as may now or hereafter be authorized by the laws of this Tribe to exercise the powers and functions of a court of law.

(c) “Lessor” shall refer to the Tribe, Indian housing authority, and to any other person or entity who shall have an interest in real property which for a limited time has been leased or rented to another; and the term “lessor” shall include an Indian housing authority which has leased real property under a mutual help and occupancy agreement or other similar arrangement whereby the tenant may, on certain conditions, obtain ownership of the occupied property at the end of occupancy under the agreement.

(d) “Tenant” shall mean any person who occupies real property under a lease, rental agreement, or other agreement with a lessor as defined in this chapter.

(e) “Secretary” shall mean the Secretary of the United States Department of Housing and Urban Development (HUD) or his or her designee, attorney, or agent or the assignee of the Secretary.

(f) "Unlawful detainer action" shall be a suit brought before the Tribal Court to terminate a tenant's interest in real property and/or to evict any person from occupancy of real property.

(g) "Writ of restitution" is an order of the Tribal Court restoring an owner or lessor to possession of real property and evicting a tenant or other occupant therefrom.

(h) "Nuisance" is the maintenance on real property of a condition which unreasonably threatens the health or safety of the public or neighboring land users or unreasonably and substantially interferes with the ability of neighboring property users to enjoy the reasonable use and occupancy of their property.

(i) "Waste" is spoil or destruction by a tenant of lands, buildings, gardens, trees, or other improvements which results in substantial injury to the lessor's interest in the property.

(j) Reference to persons by terms denoting one sex shall be taken as referring to either sex. Reference to persons by a term denoting the singular shall include the plural. (Res. 82-005 §3, passed Jan. 14, 1982; amended by Res. 96-070 (part), passed Aug. 12, 1996)

**5.4.4. Unlawful Detainer.** (a) A tenant or other occupier of land shall be guilty of unlawful detainer if such person shall continue in occupancy of real property without the requirement of any notice under any of the following circumstances:

(1) After the expiration of the term of the lease or other agreement;

(2) If such person has entered onto or remains on the real property of another without the permission of the owner and without having any substantial claim of a lease or title to the property;

(3) After an Indian housing authority or other public housing authority has terminated such person's tenancy pursuant to procedures providing such person a hearing before the housing authority involved; or

(4) After the interest of such person in a lease has been foreclosed in a leasehold mortgage foreclosure proceeding in the Tribal Court.

(b) A tenant or other occupier of land shall be guilty of unlawful detainer if, after having received thirty (30) days' notice, such tenant or occupier shall remain in possession of the property contrary to the terms of the notice as follows:

(1) When such person has received notice:

(A) That he or she is in default in the payment of rent; and

(B) Requiring him or her in the alternative to pay the rent or surrender possession of the occupied property;

(2) When the lease of the property is for an indefinite time, with rent to be paid monthly or by some other period, and the lessor has given notice of termination of the tenancy at least thirty (30) days prior to the end of such month or period;

(3) When such person shall continue to fail to keep or perform any condition or covenant of the lease or agreement under which the property is held after he or she has been given notice to either perform such condition or covenant or to surrender the property; or

(4) When such person continues to commit or to permit waste upon or maintain a nuisance upon the occupied property after having been given notice in the alternative either to cease such waste or maintenance of nuisance or to surrender the property. (Res. 82-005 §4, passed Jan. 14, 1982; amended by Res. 96-070 (part), passed Aug. 12, 1996)

**5.4.5. Service of Notice.** (a) Notices required or authorized in §5.4.4 shall be given in writing either by delivering a copy personally to the tenant or occupier or to any adult member of his or her family residing on the premises or by posting said notice in a conspicuous place near the entrance to the said premises and sending an additional copy to the tenant or occupier by certified mail, return receipt requested, properly addressed, postage paid.

(b) Proof of service by either of the above methods may be made by affidavit of any adult person stating that he or she has complied fully with the requirements of one of the two methods of service. (Res. 82-005 §5, passed Jan. 14, 1982; amended by Res. 96-070 (part), passed Aug. 12, 1996)

**5.4.6. Complaint and Summons.** The owner of real property or lessor or the Secretary shall commence an action for unlawful detainer by filing with the court in writing the following documents:

(a) A complaint, signed by the owner, lessor, an agent, attorney, or the Secretary stating:

(1) The facts on which he or she seeks to recover;

(2) Describing the property so it can be identified with reasonable certainty;

(3) Stating any claims for damages or compensation due from the persons to be evicted; and

(4) Setting forth all facts and substantiating the requirements as set forth in the federal regulations and program guidelines for counseling and notices.

(b) A summons issued as in other cases requiring the defendants to appear for a trial upon the complaint on a date and time specified in the summons. The trial date specified in the summons shall be not less than six (6) nor more than thirty (30) days from the date of service of the summons and complaint. The summons must notify the defendants that judgment will be taken against them in accordance with the terms of the complaint unless they file with the court an answer and appear for trial at the time, date, and place specified in the summons.

(c) Notice provided to the Tribe by serving with a copy of the summons and complaint. (Res. 82-005 §6, passed Jan. 14, 1982; amended by Res. 96-070 (part), passed Aug. 12, 1996)

**5.4.7. Power of the Tribal Court.** (a) The Tribal Court shall enter a writ of restitution if notice of suit and trial is given by service of summons and complaint in accordance with the procedures provided in this chapter and if the Tribal Court shall find that the occupier of real property is guilty of an act of unlawful detainer.

(b) Upon issuance of a writ of restitution, the Tribal Court shall have authority to enter against the defendant a judgment for the following:

(1) Back rent;

(2) Unpaid utilities;

(3) Charges due the Tribe, Indian housing authority, or landowner under any lease or occupancy agreement; and

(4) Damages caused by the defendants to the property other than ordinary wear and tear.

The Tribal Court shall have authority to award to the prevailing party his or her costs and reasonable attorneys' fees in bringing the suit. (Res. 82-005 §8, passed Jan. 14, 1982)

**5.4.8. Continuance in Cases Involving the Secretary or Lender.** Except by agreement of all parties, there shall be no continuances in cases involving the Secretary, assignee, or lender which will interfere with the requirement in §5.4.9 that the writ of restitution in a case involving the Secretary, assignee, or lender be enforced not later than sixty (60) days from the date of service of the summons and complaint. (Res. 96-070 (part), passed Aug. 12, 1996)

**5.4.9. Enforcement.** Upon the issuance of a writ of restitution by the Tribal Court, tribal law enforcement officers shall enforce the writ of restitution by evicting the defendants

and their property from the premises which are unlawfully occupied. In all cases involving the Secretary, assignee, or lender, the writ of restitution shall be enforced not later than sixty (60) days after the date of service of the summons and complaint. (Res. 82-005 §9, passed Jan. 14, 1982; amended and renumbered by Res. 96-070 (part), passed Aug. 12, 1996)

**5.4.10. Alternate Remedies.** In those cases in which the persons or property are subject to the jurisdiction of the courts of the State of Washington or the United States, the remedies and procedures provided by this chapter are in the alternative to the remedies and procedures provided by the laws of the State of Washington or the United States. (Res. 82-005 §10, passed Jan. 14, 1982; renumbered by Res. 96-070 (part), passed Aug. 12, 1996)

Note: Subsections 5.4.4(b)(1)(i)-(ii) renumbered to 5.4.4(b)(1)(A)-(B) for consistency.