

TITLE 5. SPECIAL PROCEEDINGS

Chapter 5.15

EXCLUSION OF SUQUAMISH TRIBAL MEMBERS FROM THE PORT MADISON INDIAN RESERVATION

Sections:

- 5.15.1 Grounds for Exclusion from the Reservation – Suquamish Tribal Members.
- 5.15.2 Petition for Exclusion.
- 5.15.3 Exclusion Hearing.
- 5.15.4 Appeals.
- 5.15.5 Order of Removal.
- 5.15.6 Tribal Benefits.
- 5.15.7 Limitations on Exclusion.
- 5.15.8 Service.
- 5.15.9 Vacating an Order of Exclusion.

5.15.1. Grounds for Exclusion from the Reservation – Suquamish Tribal Members. Any Suquamish tribal member may be excluded from the Port Madison Indian Reservation and all lands subject to the Suquamish Tribe’s jurisdiction if convicted of the following crimes as defined by tribal, state, or federal law:

(a) A sex crime that would require the Tribal member to register as a sex offender under tribal, state, or federal law;

(b) Murder, attempted murder, or manslaughter;

(c) A violent crime that results in serious bodily injury;

(d) A person who has two or more convictions for crimes involving domestic violence. (Res. 2022-170, passed Oct. 24, 2022)

5.15.2. Petition for Exclusion. The Suquamish Tribal Council will by resolution authorize the tribal prosecutor or other attorney for the Tribe to petition the Suquamish Tribal Court (“Court”) to serve notice, in accordance with this chapter, upon any member when the Council has reason to believe cause may exist for exclusion of that member. This petition and notice will be filed with the Court within ten (10) business days of the date of the Tribal Council resolution authorizing the petition. The notice will state the reason for the order and will name a time within not less than five (5) days, unless an emergency exists, when the person will appear before the Court for a hearing to determine whether the person should be excluded from the exterior boundaries of the Port Madison Indian Reservation or portion of the Reservation. (Res. 2022-170, passed Oct. 24, 2022)

5.15.3. Exclusion Hearing. (a) After notice to the person proposed for exclusion, the Court will hold a hearing to decide whether or not to exclude that person from the exterior boundaries of the Port Madison Indian Reservation. A respondent to an exclusion petition has no right to a jury trial.

(b) Hearings upon exclusion petitions will generally be held within twenty (20) days of service of the notice upon the person to be excluded. Such hearings will take precedence over all other matters, except requests for temporary restraining orders or other matters which must be heard immediately to prevent the expiration of a time period for judicial action established by tribal ordinance.

(c) If the person does not appear at the hearing at the time and place scheduled or if at the hearing the judge finds by a preponderance of the evidence that cause does exist to exclude that person from the exterior boundaries of the Port Madison Indian Reservation, the Court will issue an order excluding the person from all or any part of the Port Madison Indian Reservation or permitting such person to remain on the Port Madison Indian Reservation under such conditions as are specified in the order, which conditions will include, in any event, a reasonable time to collect any necessary clothing or personal effects and remove them from the reservation. The order will remain effective unless vacated, revoked, or modified by the Court. (Res. 2022-170, passed Oct. 24, 2022)

5.15.4. Appeals. Final orders of the Court under this chapter may be appealed to the Suquamish Tribal Court of Appeals as provided in this code. Unless otherwise ordered by a judge of the Court, an order of exclusion will not be stayed pending appeal. (Res. 2022-170, passed Oct. 24, 2022)

5.15.5. Order of Removal. Upon the issuance of an order of exclusion, a copy thereof will be served upon the person to be excluded, in accordance with the service provisions of this chapter. Any person in violation of an order of exclusion, having been served with the order or having actual knowledge of the order, may, in addition to any other penalty or remedy under tribal law, be removed bodily from the Port Madison Indian Reservation by any tribal law enforcement officer, without further judicial process. (Res. 2022-170, passed Oct. 24, 2022)

5.15.6. Tribal Benefits. Excluded persons will not receive cash assistance payments from the Suquamish Tribe, including but not limited to disability assistance, special needs assistance, elders' payments, veterans' payments, needs-based payments, major medical assistance, TANF, median income assistance, higher education assistance, fishing stickers, or any other cash assistance payments available to persons in the Suquamish community. Excluded persons are not eligible to exercise treaty fishing rights while they are excluded. (Res. 2022-170, passed Oct. 24, 2022)

5.15.7. Limitations on Exclusion. (a) Any person who owns real property within the reservation and has a legal right to reside upon that property may not be excluded from that property, but will be allowed to access that property by the shortest route via a legal

right of way. This subsection does not permit access to real property acquired after the petition for exclusion is filed.

(b) Excluded persons may come onto the Port Madison Indian Reservation to attend the funeral of an immediate family member on the day of the funeral and during funeral hours. For purposes of this subsection, “immediate family member” means a spouse, significant other, child, stepchild, sibling, parent, step-parent, grandparent, or in-law (mother, father, sister, or brother). Before coming onto the reservation, the excluded person must notify the Suquamish Chief of Police. If the Chief of Police is unable to verify that the excluded person is an immediate family member of the deceased person, the excluded person will not be allowed onto the reservation. The Chief of Police will use his or her discretion as to whether or not police supervision is necessary to ensure the safety of the community or other persons. An excluded person may be denied the right to attend a funeral if there is a substantial threat of harm or injury to the community or to a person. (Res. 2022-170, passed Oct. 24, 2022)

5.15.8. Service. Any notice to be given under this chapter may be served by any one or more of the following means:

(a) Personal service;

(b) Registered or certified mail;

(c) Delivery to a person of suitable age and discretion at the usual living place or place of employment of the person who is the subject of the order;

(d) Posting on the exterior of a dwelling known to be frequented by the person who is the subject of the order, but only if that person’s presence at the location is supported by a sworn witness declaration; or

(e) Publication at least one (1) time in the Kitsap Sun, or in any newspaper of general circulation on or adjacent to the Port Madison Indian Reservation, or in a newspaper of general circulation in the town closest to where the person who is the subject of the order was last known to reside.

Proof of service will be made by affidavit or in any manner permitted in other civil proceedings. (Res. 2022-170, passed Oct. 24, 2022)

5.15.9. Vacating an Order of Exclusion. Suquamish tribal members who have been excluded from the Port Madison Indian Reservation for more than twelve (12) months, may petition the Suquamish Tribal Council to request to have their exclusion order vacated by the Court.

(a) Excluded persons requesting to have their exclusion order vacated must mail by certified mail, addressed to the Chair of the Suquamish Tribal Council, the Suquamish Legal Department, and the Chief of the Suquamish Police, a written petition

to request a Council recommendation to repeal the exclusion. The request to vacate the order of exclusion must be signed by the excluded person and may contain any documents, signed declarations, or other evidence of circumstances supporting the petitioner's request.

(b) Within sixty (60) days, the Suquamish Tribal Council will review the submitted petition. The Suquamish Tribal Council may request the excluded person or other persons (including, but not exclusively, the Chief of Police, the Suquamish Legal Department, any other interested parties, or any victims of the excluded person) to discuss the petition with the Suquamish Tribal Council. The Suquamish Tribal Council will hold a vote whether to recommend by resolution to the Court that it vacate the order of exclusion.

(c) In the event the Suquamish Tribal Council fails to vote to recommend vacating the order of exclusion, further petitions for the Suquamish Tribal Council to recommend vacating the order of exclusion for that person will not be permitted for twelve (12) months following the date the original request was submitted.

(d) In the event the Suquamish Tribal Council votes to recommend vacating the order of exclusion, the excluded individual may then petition the Court to vacate the exclusion. The Suquamish Office of the Tribal Attorney must be served with the petition. The petitioner may include any supporting documentation in the filing. The Court lacks jurisdiction to hear a petition to vacate an order of exclusion that is not accompanied by a recommendation by the Suquamish Tribal Council to vacate the order of exclusion.

(e) The Court will set a hearing within thirty (30) days of the filing of the petition to vacate the order of exclusion. The Court will provide the petitioner and the Tribe with notice of this hearing. At the hearing, the Court will determine whether the Suquamish Tribal Council has recommended vacating the order of exclusion by resolution. If the Court finds that the Suquamish Tribal Council has recommended vacating the order of exclusion, the Court will enter an order vacating the prior order of exclusion within thirty (30) days of the hearing. The Court will forward copies of its order to the Suquamish Chief of Police and Suquamish Legal Department.

(f) Vacating an order of exclusion is a privilege. This section does not recognize or create any right under Suquamish law.

(g) An excluded person appearing on the Port Madison Indian Reservation for any of the purposes permitted in this chapter will not be in violation of his or her exclusion order. (Res. 2022-170, passed Oct. 24, 2022)