

TITLE 12
LUMMI NATION CODE OF LAWS
EXCLUSION CODE

Enacted: Resolution S-13 (10/7/74)

Amended: Resolution 2004-077 (6/7/04)
Resolution 2004-087 (7/12/04)

**TITLE 12
LUMMI NATION CODE OF LAWS
EXCLUSION CODE**

Table of Contents

Chapter 12.01 Purpose

12.01.010 Purpose.....1

Chapter 12.02 Exclusion and the Grounds Thereof

12.02.010 Who May Be Excluded.....1

12.02.020 Grounds for Exclusion1

Chapter 12.03 Exclusion Proceedings

12.03.010 Complaints Seeking Exclusion Shall Be Brought in the Name of the Lummi Nation..1

12.03.020 Authorization of Complaints for Exclusion.....1

12.03.030 Procedures.....2

12.03.040 Orders of Exclusion2

Chapter 12.04 Enforcement

12.04.010 Enforcement of Orders of Exclusion2

Chapter 12.05 Severability

12.05.010 Severability2

**TITLE 12
LUMMI NATION CODE OF LAWS
EXCLUSION CODE**

Chapter 12.01 Purpose

12.01.010 Purpose

(a) In the customs and traditions of the Lummi People, individuals who posed a threat to the community were sometimes banished and excluded from Lummi Territory. The Lummi Nation, as a Sovereign and a People, has an inherent right to govern their land and territory. This right was acknowledged in the 1855 Treaty of Point Elliot, particularly Article 2, which acknowledged the Nation's authority to exclude individuals from within its territorial boundaries. In addition to the authority acknowledged in the 1855 Treaty, the Lummi Constitution entrusts to the Lummi Indian Business Council (LIBC), as the governing body of the Lummi Nation, the duty and authority to safeguard and promote Lummi culture and identity, as well as the peace, safety, morals and general welfare of the Lummi People. Based on the foregoing, this Code shall be liberally construed in the spirit of, and pursuant to, Lummi custom and tradition, the 1855 Treaty of Point Elliot, and the Lummi Constitution.

(b) The fundamental purposes of this Exclusion Code are two-fold: the first is to protect the health, safety, and welfare of the Lummi Nation and the Lummi Reservation community; the second is to provide the person to be excluded with the motivation and means to seek treatment and rehabilitation so that their conduct may no longer be a threat to the health, safety, and welfare of the Lummi Nation.

Chapter 12.02 Exclusion and Grounds Thereof

12.02.010 Who May Be Excluded

Any individual who is shown by clear and convincing evidence to have threatened the health, safety or welfare of the Lummi Nation by engaging in any of the behaviors listed in section 12.02.020 may be excluded from the Lummi Reservation.

12.02.020 Grounds for Exclusion

Commission of any of the following felony offenses, as defined by Tribal, federal, or state laws, shall be considered in determining whether an individual is a threat to the health, safety, or welfare of the Lummi Nation, and may be grounds for entry of an order of exclusion.

(a) Felony offenses involving the manufacture, delivery, or sale of a controlled substance. "Involving" shall be liberally interpreted to cover actions at all stages of the manufacture, sale, or delivery process.

(b) Sexual conduct that would constitute a felony offense under section 5.09C of the Lummi Code of Laws or a similar offense in another jurisdiction.

(c) Felony offenses involving the use of a weapon that could have resulted in serious bodily harm.

(d) Felony violent offenses with or without a weapon that result in serious bodily harm.

Chapter 12.03 Exclusion Proceedings

12.03.010 Complaints Seeking Exclusion Shall Be Brought in the Name of the Lummi Nation

Only the Lummi Nation shall have the authority to seek the exclusion of an individual from the Lummi Reservation boundaries.

12.03.020 Authorization of Complaints for Exclusion

Complaints seeking exclusion shall be authorized by the majority vote of a committee comprised of the Lummi Nation Chief of Police, the Lummi Nation Prosecutor, and one or more individuals designated by the LIBC. The committee shall periodically report their actions to the LIBC to keep the Council informed about their work. Additional procedures may be adopted by the

LIBC governing how the committee evaluates and prosecutes exclusion proceedings.

12.03.030 Procedures

Complaints seeking exclusion shall be treated as civil actions under Titles 1, 3 and 4 of the Lummi Code of Laws. Complaints seeking exclusion shall be filed and served according to the rules for filing and serving civil complaints. Trial by jury shall not be available in an exclusion proceeding.

12.03.040 Orders of Exclusion

The court may issue Conditional or Contingent Orders of Exclusion. Both Conditional and Contingent orders of exclusion shall contain provisions allowing for removal of the order of exclusion upon petition by the person subject to the exclusion order. The provisions of the order shall be relevant to the rehabilitation of the excludee in order that they may no longer be a threat to the health, safety, or welfare of the Lummi Nation

(a) Conditional Orders of Exclusion exclude an individual from the Lummi Reservation upon entry of the order but allow the individual to regain access to the Lummi Reservation by fulfilling requirements imposed by the court. Conditional orders of exclusion may also allow entry onto the reservation only for specific purposes, including, but not limited to, alcohol or drug dependency treatment, or funerals of immediate family members.

(b) Contingent Orders of Exclusion will take effect if the individual does not fulfill requirements imposed under the order. A Contingent Order of Exclusion may restrict an individual's access to certain areas of the Lummi Reservation or participation in activities conducted on the Reservation, pending fulfillment of the requirements imposed by the order.

Chapter 12.04 Enforcement

12.04.010 Enforcement of Orders of Exclusion

Any individual who has been excluded by the Lummi Tribal Court may be immediately

removed by the Lummi Police if they are found within the exterior boundaries of the Lummi Nation.

Chapter 12.05 Severability

12.05.010 Severability

The invalidity of any section, clause, sentence or provision of this Code shall not affect the validity of any part of this Code which can be given effect without such invalid part or parts.

Title12supp06