

## 11,70,010 Eminent Domain

The Tribe hereby authorizes the use by the Business Committee of the powers of eminent domain within the exterior boundaries of the Chehalis Reservation.

### 11.70.020 Conditions for the exercise of Eminent Domain powers

1. The Tribe identifies the proposed taking.
2. The Business Committee passes a Resolution identifying the parcel and legal description for which eminent domain applies and the public purpose.
3. The Tribal Resolution also authorizes the due process procedures set forth herein for use by both the Tribe and anyone whose property is subject to eminent domain taking.
4. The Resolution also includes the offered price for such eminent domain exercise.
5. Upon passage of the Resolution, the Tribe shall serve notice of the eminent domain taking, including for an easement across fee land within the exterior boundaries of the Chehalis Reservation.
6. The notice shall be served either in person, by mail or by overnight courier service.
7. The notice shall contain a legal description of the parcel and / or easement parcel to be taken, the terms of the taking and / or easement, the public purpose for the taking, an offer of compensation for the taking and the Agreement proposed to be executed by the parties.
8. Any taking and / or easement shall be for a public purpose.
9. A public purpose includes, without limitation, providing an easement for the installation, maintenance and repair of a public utility service provided to a group of members / residents of the Reservation.
10. Such an easement by eminent domain shall include access for the purpose of installation of utility facilities such as pipes and pumps, together with the right of access for maintenance and / or repair.
11. Should the landowner(s) subject to the notice of eminent domain taking agree to the offered price, then the Tribe and the landowner shall execute a document or documents to accomplish and record at the Tribe and / or in the State of Washington the necessary taking and / or easement.
12. Should the landowner(s) decline the offered price, then, after an attempt to negotiate a price within 14 days of receipt of the Notice, the Tribe shall record the eminent domain taking at the Tribe and / or in the State of Washington and commence a declaratory judgment action against the landowner(s) in the Chehalis Tribal Court to ratify and affirm the taking's public purpose, establish the fair market value of the taking, which fair market value and determination of the public purpose, after Court judgment, shall be non-appealable by either party to the lawsuit and shall be final and binding on the Tribe and the defendant(s).
13. Should the landowner seek to contest the public purpose for which the Tribe has taken the property through eminent domain, then the landowner shall move and the Court shall hold a hearing within 14 days after service of the declaratory judgment lawsuit to determine if the taking was for a public purpose.
14. The affirmation of the public purpose and the determination of fair market value of the taking and / or easement shall be established by a preponderance of the evidence.

15. Upon a Court determination of the fair market value of the taking and / or easement, the Tribe shall pay said fair market value purchase price to the landowner(s).
16. Since the Tribe is the Plaintiff in any Tribal Court case set forth herein, there shall be no waiver of the sovereign immunity of the Tribe by the actions allowed herein.