TITLE V
LANDLORD/TENANT AND HOUSING CODE

CHAPTER 1
GENERAL PROVISIONS

Section V.1.1.
Title

This enactment shall be known as the “Ponca Tribe of Nebraska Landlord/Tenant and Housing Code.”

Section V.1.2.
Purposes

This Code shall be interpreted and construed to fulfill the following purposes:

A. To simplify the law governing the occupation of dwelling units, and to protect the rights of landlords and tenants.

B. To preserve the peace, harmony, safety, health and general welfare of the people of the Tribe.

C. To provide eviction procedures and to require landlords to follow such procedures when evicting tenants.

D. To encourage landlords and tenants to maintain and improve dwellings in order to improve the quality of housing as a tribal resource.

E. To provide the law governing the rights, obligations, and remedies of the owners, sellers, buyers, lessors, and lessees of buildings.

F. To establish laws and procedures which are necessary in order to obtain governmental funding for tribal housing programs or loan guarantees for private or tribal housing construction, purchase, or renovation.

Section V.1.3.
Definitions

Save for any differences in the context of this Code, the following definitions shall be used:
A. “Action, suit or lawsuit, claim, complaint or defense” includes any dispute between persons or entities which relates to the sale, rental, use or occupancy of any housing, dwelling, or accommodation for human occupancy, including claims for the payment of monies for such housing, dwelling, or accommodation, damages to such units, condition of such units or the relationships between owners and occupiers of such units, including the right to occupy them.

B. “Building and housing codes” include any law, ordinance, or Ponca Tribe of Nebraska governmental regulation concerning the fitness for habitation or the construction, maintenance, operation, occupancy, use, or appearance of any premises or dwelling unit, that is erected on any property over which the Ponca Tribe of Nebraska maintains and exerts jurisdiction.


D. “Deposit” includes any money or other property required by a landlord from a tenant as and for security and which is to be returned to the tenant upon termination of the rental agreement, law, rule, or regulation of the United States of America promulgated to effectuate the Mutual Help Homeownership Program, or U.S. Governmental Housing Program administered by the Housing Authority of the Ponca Tribe of Nebraska.

E. “Dwelling Unit” means a structure, or that part of a structure, which is used as a home, residence or sleeping place by one or more persons.

F. “Good Faith” means honesty in fact in the conduct of the transaction concerned.

G. “Home Buyer” means any person(s) who has executed an MHO Agreement with the NPFA or an MHO Agreement for another home in the project (as indicated by the context of the Agreement), and who has not yet achieved homeownership.

H. “Landlord” means the owner, lessor or sublessor of the dwelling unit or the building of which it is a part, and it also means a manager of the premises who fails to comply with the disclosure provisions of this Code, including the Ponca Tribe of Nebraska and the Northern Ponca Housing Authority.
I. "Indian" shall include any person that is an enrolled member of any federally-recognized Tribe.

J. "Northern Ponca Housing Authority" or "NPHA" means the Northern Ponca Housing Authority, the tribally-designated housing entity of the Ponca Tribe of Nebraska.

K. "Lease" means an agreement, written, as well as valid rules and regulations, regarding the tenants and conditions of the use and occupancy of real property, dwelling unit, building, or premises, including a lease-to-own agreement.

L. "Lessee" means a tenant of a dwelling unit, user and/or occupier of real property, or the homebuyer under any federal mortgage program including the Mutual Help program.

M. "Lessor" means the legal, beneficial, or equitable owner of property under a Lease. Lessor may also include the heir(s), successor(s), executor(s), administrator(s), or assign(s) of the Lessor.

N. "Organization" includes a corporation or any governmental subdivision, any agency, business trust, estate, trust, common interest, and any other legal or commercial entity.

O. "Owner" means one or more persons, jointly or severally, in whom is vested:

1. All or any part of the legal title to the property, or
2. All or part of the beneficial ownership and a right to present use and enjoyment of the property, and such term includes a mortgagee in possession.

P. "Person" includes both individuals and organizations.

Q. "Premises" means a dwelling unit and the structure of which it is a part, the facilities and appurtenances therein, and the grounds, areas and facilities held out for the use of the tenant generally or use of which is promised to the tenant.

R. "Rent" means all payments, except deposits and damages, to be made to the landlord under the rental agreements, including required fees.
S. “Rental Agreement” means all agreements, and valid rules and regulations adopted under this Code, which establish, embody, or modify the dwelling unit and premises.

T. “Roomer” or “Boarder” is a tenant occupying a dwelling unit which lacks at least one major bedroom, kitchen facility, refrigerator, stove, or bathroom facility, such as a toilet, in a building:

1. Where one (1) or more of such major facilities are supplied to be used in common by the occupants of the roomer or boarder's dwelling unit and one (1) or more other dwelling units; and

2. In which the landlord resides.

U. “Single-family residence” means a structure used and maintained as a single dwelling unit. A dwelling unit, including those with common walls, shall be deemed a single-family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

V. “Tenant” means any person entitled under a rental agreement to occupy a dwelling unit.

W. “Tribe” means Ponca Tribe of Nebraska.

X. “Tribal Court” means the Ponca Tribe of Nebraska Tribal Court.

Section V.1.4.
Application

A. Except as otherwise provided in this Code, this Code applies to, regulates and determines rights, obligations and remedies under a rental agreement for a dwelling unit located within any area over which the Ponca Tribe of Nebraska exercises jurisdiction.

B. Any lease agreement shall be enforceable insofar as that lease agreement does not conflict with any provision of this Code. Should only a portion or provision of a lease agreement conflict with this Code, that portion or provision shall be unenforceable. The remainder of the lease agreement shall be enforceable. Lease agreements
must be in writing. Oral lease agreements are unenforceable.

Section V.1.5. 
Mitigation of Damages

An aggrieved party under the provisions of this Code has a duty to mitigate damages.

Section V.1.6. 
Settlement of Claim

A claim or right arising under this Code or rental agreement, if disputed in good faith, may be settled by agreement and requires no further consideration.

Section V.1.7. 
Good Faith Performance or Enforcement

Every duty under this Code and every act which must be performed as a condition precedent to the exercise of a right or remedy under this Code impose an obligation of good faith in its performance or enforcement.

Section V.1.8. 
Beneficial Owner to Maintain Premises

Any agreement, assignment, conveyance, trust deed or security instrument which authorizes a person other than the beneficial owner to act as a landlord of a dwelling unit shall not relieve the beneficial owner of the duty to conform with this Code and any other law, code, ordinance, or regulation concerning the maintenance and operation of the premises.

Section V.1.9. 
Construction of Code

This Code shall be liberally construed and applied to promote and effectuate its underlying purposes and policies.

Section V.1.10 
Relation to Other Laws

A. Applicable Law. Unless affected or displaced by this Code, principles of law and equity in the common law of the Tribe and tribal customs and traditions are applicable, and the general principles of law of any other Tribe or any other
jurisdiction, although non-binding, may be used as a guide to supplement and interpret this Code.

B. Other Applicable Laws. Additional tribal and federal laws may apply with regard to tribal housing such as the ordinance establishing the NFHA, any NFHA regulations or policies, and governmental housing laws and regulations.

C. Conflicts With Other Laws:

1. Tribal Laws: To the extent that this Code conflicts with tribal laws or ordinances which have been enacted to comply with statutes or regulations of any agency of the United States, such tribal laws or ordinances shall govern over the provisions of this Code if it has specific applicability and it is clearly in conflict with the provisions of this Code.

2. Federal Laws: Where a conflict appears between this Code and any statute, regulation, or agreement of the United States, the federal law shall govern if it has specific applicability and if it is clearly in conflict with the provisions of this Code.

3. State Laws: State laws shall not govern the relations of the parties. Due to the federal nature of Indian housing, including the Indian Housing Act, the Native American Housing Assistance and Self-Determination Act of 1996, and other federal statutes governing Indian housing, unless the laws of a state are expressly made applicable by the United States Congress, state laws are not applicable for purposes of this Code.

Section V.1.12
Rules of Evidence

The Federal Rules of Evidence shall apply to all proceedings of the Court brought pursuant to this Code or seeking to enforce any provision of this Code.

Section V.1.12. Jurisdiction

A. For purposes of this Code, jurisdiction is extended over all buildings and lands intended for human dwelling, occupation, or residence which may lie within:
1. The Tribe’s service area pursuant to P.L. 101-484;

2. Lands owned by, held in trust for, leased or used by the Tribe, its members, its housing authority, or any other entity of the Tribe; or

3. The Indian Country of the Tribe, as defined in 18 U.S.C. § 1151, and as may be defined from time to time by the laws of the Tribe or of the United States.

B. For purposes of this Code, tribal jurisdiction is extended over all persons or entities who sell, rent, lease, or allow persons to occupy housing, dwellings, or accommodations for the purpose of human dwelling, occupation, or residence, and all persons who buy, rent, lease, or occupy such structures. Such personal jurisdiction is extended over all persons and entities, whether they are Indian or non-Indian.

C. For purposes of this Code, jurisdiction is extended over:

1. All buildings which may lie upon lands owned by, held in trust for, leased or used by the Tribe, its members, the NPHA, or any other entity of the Tribe; and

2. All persons or entities within the jurisdiction of the Tribe who lease, mortgage, or otherwise secure an interest in a building.

D. For purposes of this Code, jurisdiction over all matters arising within the jurisdiction of the Tribe with respect to the subjects of this Code, and jurisdiction with respect to any person or entity acting or causing actions which arise under this Code, shall be exercised by the Tribal Court.

CHAPTER 2

TENANCY, RENTS, TERMINATION AND DEPOSITS

Section V.2.1.

Rent

A. In the absence of agreement, the occupants of a dwelling unit shall pay to the landlord as rent the fair rental value for the use and occupancy of the dwelling unit.
B. Rent shall be payable at the time and place agreed to by the parties. Unless otherwise agreed, the entire rent shall be payable at the dwelling unit at the beginning of any term of one (1) month or less, while one (1) month’s rent shall be payable at the beginning of each month of a longer term.

Section V.2.2.
Term of Tenancy

Unless the rental agreement fixes a definite term in writing, the tenancy is month-to-month.

Section V.2.3.
Termination of Tenancy

A. Except as otherwise provided, when the tenancy is month-to-month or a tenancy at will, the landlord or tenant may terminate the tenancy, provided the landlord or tenant gives a written notice to the other at least thirty (30) days before the date upon which the termination is to become effective. The thirty (30) day period to terminate shall begin to run from the date notice to terminate is served as provided in this Section.

B. Except as otherwise provided in this Code, when the tenancy is less than month-to-month, the landlord or tenant may terminate the tenancy provided the landlord or tenant gives to the other a written notice served, as provided in this Section, at least seven (7) days before the date upon which the termination is to become effective.

C. Unless earlier terminated under the provisions of the Landlord and Tenant Housing Code of the Ponca Tribe of Nebraska, or unless otherwise agreed upon, a tenancy for a definite term expires on the ending date thereof without notice.

D. If the tenant remains in possession without the landlord’s consent after the expiration of the term of the rental agreement or its termination under this Code, the landlord may immediately bring an action for possession and damages. If the tenant’s holdover is willful and not in good faith, the landlord may also compute and prorate the rent on a daily basis, for each month or portion thereof that said tenant remains in possession. If the landlord consents to
the tenant’s continued occupancy, a month-to-month tenancy is thus created, unless the parties otherwise agree.

E. The written notice, required by this Code, to terminate any tenancy shall be served on the tenant or landlord personally unless otherwise specified by law. If the tenant cannot be located, service shall be made by delivering the notice to any family member of such tenant over the age of eighteen (18) years residing with the tenant. If service cannot be made on the tenant personally or on such family member, notice shall be posted at a conspicuous place, on the dwelling unit of the tenant. If the notice is posted, a copy of such notice shall be mailed to the tenant by certified mail.

Section V.2.4.
Duties of Parties Upon Termination of Tenancy

Except as otherwise provided in this Code, whenever either party to a rental agreement rightfully elects to terminate, the duties of each party under the rental agreement shall cease and be determined upon the effective date of said termination, and the parties shall thereupon discharge any remaining obligations under this Code as soon as practicable.

Section V.2.5.
Denial or Termination of Tenancy Because of Guide, Signal or Service Dog

A landlord shall not deny or terminate a tenancy to a blind, deaf, or physically handicapped person because of the guide, signal or service dog of such person, unless such dog is found to be vicious or destructive of property.

Section V.2.6.
Rental Agreements

A. A rental agreement shall not provide that either party thereto:

1. Agree to waive or forego rights or remedies under this Code;

2. Authorize any person to confess judgment on a claim arising out of the rental agreement;

3. Agree to pay the other party’s attorney’s fees;
4. Agree to the exculpation, limitation or indemnification of any liability arising under law for damages or injuries to persons or property caused by or resulting from the acts or omissions of either party, their agents, servants, or employees in the operation or maintenance of the dwelling unit or the premises of which it is a part; or

5. Agree to the establishment of a lien except as allowed by this Code in and to the property of the other party.

B. A provision prohibited by this Section and included in a rental agreement is unenforceable.

C. Any prohibition provided by subsection 1 shall be superseded by MHO provisions mandated by federal law.

Section V.2.7. Damage or Security Deposits

A. Any damage or security deposit required by a landlord of a tenant must be kept in a bank account used only for holding tenant deposits.

B. Upon termination of the tenancy, any security deposit held by the landlord may be applied to the payment of accrued rent and the amount of damages which the landlord has suffered by reason of the tenant’s noncompliance with this Code and the rental agreement, all as itemized by the landlord in a written statement to be delivered by mail with a return receipt requested and to be signed for by any person of statutory service age at such address or in person to the tenant if he can reasonably be found. If the landlord proposes to retain any portion of the security deposit for rent, damages, or other legally allowable charges under the provisions of this Code or the rental agreement, the landlord shall return the balance of the security deposit without interest to the tenant within thirty (30) days after the termination of tenancy, delivery of possession, and written demand by the tenant. If the tenant does not make such written demand of such deposit within six (6) months after termination of the tenancy, the deposit reverts to the landlord in consideration of the costs and burdens of maintaining the account, and the interest of the tenant in that deposit terminates at that time.

C. Upon cessation of a landlord’s interest in the dwelling unit including, but not limited to, termination of interest by
sale, assignment, death, bankruptcy, appointment of receiver or otherwise, the person in possession of the tenant’s damage or security deposits at his option or pursuant to Court order shall, within a reasonable time:

1. Transfer said deposits to the landlord’s successor-in-interest and notify the tenant in writing of such transfer and of the transferee’s name and address; or

2. Return the deposits to the tenant.

D. Upon receipt of the transferred deposits under paragraph (a) of subsection (3) of this Section, the transferee, in relation to such deposits, shall have all the rights and obligations of a landlord holding such deposits under this Code.

E. If a landlord or manager fails to comply with this Section or fails to return any prepaid rent required to be paid to a tenant under this Code, the tenant may recover the damage and security deposits and prepaid rent, if any.

F. Except as otherwise provided by the rental agreement, a tenant shall not apply or deduct any portion of the security deposit from the last month’s rent, or use or apply such tenant’s security deposit at any time in lieu of payment of rent.

G. This Section does not preclude the landlord or tenant from recovering other damages to which he may be entitled under this Code.

Section V.2.8.
Person to Accept Service or Notice, Identity of Owner and Manager, Failure to Comply With Section

A. As a part of any rental agreement, the landlord or his/her agent shall promptly and in writing identify what person and at what address rent and any notice or legal process permitted or required under this Code is to be delivered or served. To accept service, the individual must be eighteen (18) years of age. The landlord or his/her agent shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:

1. The person or persons authorized to manage the premises;

2. The owner or owners of the premises; or
3. The name and address of a person authorized to act for and on behalf of the owner.

The information required to be furnished by this Section shall be kept current and this Section extends to and is enforceable against any successor owner, landlord, or manager.

Section V.2.9.
Commencement of Tenancy, Delivery of Possession, Wrongful Possession

At the commencement of the term, a landlord shall deliver full possession of the premises to the tenant in compliance with the rental agreement. Except as otherwise provided in this Code, the landlord may bring an action for possession against any other person wrongfully in possession and may recover his damages.

CHAPTER 3
DUTIES OF THE LANDLORD/TENANT

Section V.3.1.

A. A landlord shall at all times during the tenancy:

1. Except in the case of a single-family residence, keep all common areas of his building, grounds, facilities, and appurtenances in a clean, safe, and sanitary condition;

2. Make all repairs and do whatever is necessary to put and keep the tenant’s dwelling unit and premises in a fit and habitable condition;

3. Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by him;

4. Except in the case of a single family residence or where provided by a governmental entity, provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish and other waste incidental to the occupancy of the dwelling unit and arrange for the frequent removal of such wastes; and
5. Except in the case of a single-family residence or where the service is supplied by direct and independently metered utility connections to the dwelling unit, supply running water and reasonable amounts of hot water at all times and reasonable heat.

B. The landlord and tenant of a dwelling unit may agree, by a conspicuous writing independent of the rental agreement, that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling.

Section V.3.2.
Conveyance of Property; Attornment of Tenant

A. A conveyance of real estate, or of any interest therein, by a landlord shall be valid without the attornment of the tenant, but the payment of rent by the tenant to the grantor at any time before written notice of the conveyance is given to the tenant shall be good against the grantee.

B. The attornment of a tenant to a stranger shall be void and shall not affect the possession of the landlord unless it is made with the consent of the landlord, or pursuant to a judgment at law, or the order or decree of a court.

C. Unless otherwise agreed, and except as otherwise provided in this Code, upon termination of the owner’s interest in the dwelling unit including, but not limited to, terminations of interest by sale, assignment, death, bankruptcy, appointment of a receiver or otherwise, the owner is relieved of all liability under the rental agreement and of all obligations under this Code as to events occurring subsequent to written notice to the resident of the termination of the owner's interest. The successor-in-interest to the owner shall be liable for all obligations under the rental agreement or under this Code. Upon receipt by a resident of written notice of the termination of the owner's interest in the dwelling unit, a resident shall pay all future rental payments, when due, to the successor-in-interest to the owner.

D. Unless otherwise agreed, and except as otherwise provided in this Code, a manager of premises that includes a dwelling unit is relieved of liability under a rental agreement and this Code, as to events occurring after
written notice to the tenant of the termination of his management.

Section V.3.3.
Failure of Landlord to Deliver Possession of Dwelling Unit to Tenant

If the landlord fails to deliver possession of the dwelling unit to the tenant, rent abates until possession is delivered, and the tenant may terminate the rental agreement by giving a written notice of such termination to the landlord, whereupon the landlord shall return all prepaid rent and deposit, or the tenant may, at his option, demand performance of the rental agreement by the landlord and maintain an action for possession of the dwelling unit against any person wrongfully in possession and recover the actual damages sustained by him.

Section V.3.4.
Landlord's Breach of Rental Agreement, Deductions From Rent for Repairs, Failure to Supply Heat, Water or Other Essential Services, Habitability of Dwelling

A. Except as otherwise provided in this Code, if there is a material non-compliance by the landlord of the terms of the rental agreement or a non-compliance with any of the provisions of Section V.3.1(A) of this Code, which noncompliance materially affects health or safety, the tenant may deliver to the landlord a written notice specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty (30) days after receipt of the notice if the breach is not remedied within fourteen (14) days, and thereafter the rental agreement shall so terminate as provided in the notice unless the landlord adequately remedies the breach within the time specified.

B. Except as otherwise provided in this Code, if there is a material non-compliance by the landlord with any of the terms of the rental agreement which non-compliance materially affects cost of which is less than one hundred dollars ($100.00), the tenant may notify the landlord in writing of his intention to correct the condition at the landlord’s expense after the expiration of fourteen (14) days. If the landlord fails to comply within said fourteen (14) days, or as promptly as conditions require in the case of an emergency, the tenant may thereafter cause the work to be done in a workmanlike manner and, after submitting to
the landlord an itemized statement, deduct from his rent the actual and reasonable cost or the fair and reasonable value of the work not exceeding the amount specified in this subsection, in which event the rental agreement shall not terminate by reason of that breach.

C. Except as otherwise provided in this Code, if, contrary to the rental agreement, the landlord willfully or negligently fails to supply heat, running water, hot water, electric, gas or other essential service, the tenant may give written notice to the landlord specifying the breach and thereafter may:

1. Upon written notice, immediately terminate the rental agreement; or

2. Procure reasonable amounts of heat, hot water, running water, electric, gas, or other essential service during the period of the landlord’s non-compliance and deduct their actual and reasonable cost from the rent; or

3. Recover damages based on the diminution of the fair rental value of the dwelling unit; or

4. Upon written notice, procure reasonable substitute housing during the period of the landlord’s non-compliance, in which case the tenant is excused from paying rent for the period of the landlord's non-compliance.

D. Except as otherwise provided in this Code, if there is a non-compliance by the landlord with the terms of the rental agreement, which non-compliance renders the dwelling unit uninhabitable or poses an imminent threat to the health and safety of any occupant of the dwelling unit and which non-compliance is not remedied as promptly as conditions require, the tenant may immediately terminate the rental agreement upon written notice to the landlord which notice specifies the non-compliance.

E. All rights of the tenant under this Section do not arise until he has given written notice to the landlord, or if the condition complained of was caused by the deliberate or negligent act or omission of the tenant, a member of his family, his animal or pet or other person or animal on the premises with his consent.
Section V.3.5.
Damage To or Destruction of Dwelling Unit; Rights and Duties of Tenant

A. If the dwelling unit or premises are damaged or destroyed by fire or other casualty to an extent that enjoyment of the dwelling unit is substantially impaired, unless the impairment is caused by the deliberate or negligent act or omission of the tenant, a member of his family, his animal or pet or other person or animal on the premises with his consent, the tenant may:

1. Immediately vacate the premises and notify the landlord in writing within one (1) week thereafter of his intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or

2. If continued occupancy is possible, vacate part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant’s liability for rent is reduced in proportion to the diminution in the fair value of the dwelling unit.

Section V.3.6.
Wrongful Removal or Exclusion From Dwelling Unit

If a landlord wrongfully removes or excludes a tenant from possession of a dwelling unit, the tenant may recover possession by a proceeding brought in the Ponca Tribal Court, or terminate the rental agreement after giving notice of such intention to the landlord, and in either case recover an amount not more than twice the average monthly rental, or twice his actual damages, whichever is greater. If the rental agreement is terminated, the landlord shall return all deposits recoverable under Section V.2.7 of this Code and all prepaid and unearned rent.

Section V.3.7.
Unlawful Entry or Lawful Entry in Unreasonable Manner; Harassment of Tenant; Damages

If the landlord makes an unlawful entry, or a lawful entry in an unreasonable manner, or harasses the tenant by making repeated unreasonable demands for entry, the tenant may obtain injunctive relief to prevent the recurrence of the conduct or, upon written
notice, terminate the rental agreement. In either case, the tenant may recover actual damages.

Section V.3.8.
Defective Condition of Premises; Report to Landlord

Any defective condition of the premises which comes to the tenant’s attention, and which the tenant has reason to believe is unknown to the landlord, shall be reported by the tenant to the landlord as soon as possible.

Section V.3.9.
Tenant’s Use and Occupancy of Premises; Rules and Regulations

A. A landlord, from time to time, may adopt a rule or regulation, however described, concerning the tenant’s use and occupancy of the premises. Such a rule or regulation is enforceable against the tenant only if:

1. Its purpose is to promote the convenience, peace, and safety or welfare of the tenant in the premises, preserve the landlord’s property from abusive use, or make a fair distribution of services and facilities held out for the tenant generally; and

2. It is reasonably related to the purpose of which it is adopted; and

3. It applies to all tenants in the premises in a fair manner; and

4. It is sufficiently explicit in its prohibition, direction or limitation of the tenant’s conduct or fairly informs the tenant what such tenant must or must not do to comply; and

5. It is not for the purpose of evading the obligations of the landlord; and

6. The landlord has provided sufficient notice of the rule or regulation to the tenant. "Sufficient notice" shall be satisfied by the landlord providing the rule or regulation to the tenant in writing. The writing may be provided as part of a lease agreement or it may be delivered to the tenant by any reasonable method as a separate writing, or posted conspicuously in any public area of the dwelling.
CHAPTER 4
RIGHTS AND DUTIES OF TENANTS

Section V.4.1.
Duties of the Tenant

A. The tenant shall, at all times during the tenancy, comply with the following in such a manner as to protect the property interest of this landlord and any person who resides within 300 feet of the boundary of the tenant’s dwelling unit:

1. Keep that part of the premises which such tenant occupies and uses as safe, clean and sanitary as the condition of the premises permits.

2. Dispose from such tenant’s dwelling unit all ashes, garbage, rubbish and other waste in a safe, clean and sanitary manner.

3. Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean and sanitary as their condition permits.

4. Use in a safe and non-destructive manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances including elevators in the premises.

5. Not deliberately or negligently destroy, deface, damage, impair, or remove any part of the premises or permit any person, animal or pet at the premises with the tenant’s permission to do so.

6. Not engage in conduct or allow any person or animal or pet on the premises with the express or implied permission or consent of the tenant, to engage in conduct that will disturb the quiet and peaceful enjoyment of the premises by other tenants.

7. Not commit any crimes under federal, state or tribal law.

8. Unless otherwise agreed, use by the tenant of the dwelling unit for any purpose other than a place of abode shall constitute a breach of the rental
agreement and shall be grounds for terminating the rental agreement.

9. Violations of any provision of this Section V.4.1. shall be considered a breach of lease.

Section V.4.2.
Consent of Tenant for Landlord to Enter Dwelling Unit; Emergency Entry; Abuse of Right of Entry; Notice; Abandoned Premises; Refusal of Consent

A. A tenant shall not unreasonably withhold consent to the landlord, his agents, and employees to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgages, tenants, workmen, or contractors.

B. A landlord, his agents, and employees may enter the dwelling unit without consent of the tenant in case of emergency.

C. A landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or unless it is impracticable to do so, the landlord shall give the tenant at least one (1) day’s notice of intent to enter and may enter only at a reasonable time.

D. Unless the tenant has abandoned or surrendered the premises, a landlord has no other right of access during a tenancy except as provided in this Code or pursuant to a Court order.

E. If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access or he may terminate the rental agreement.

Section V.4.3.
Tenant’s Breach of Rental Agreement; Wrongful Abandonment

A. Unless otherwise agreed, use by the tenant of the dwelling unit for any purpose other than place of abode shall constitute a breach of the rental agreement and shall be grounds for terminating the rental agreement.
B. If the tenant wrongfully quits and abandons the dwelling unit during the term of the tenancy, the landlord shall make reasonable efforts to make the dwelling unit available for rental. If the landlord rents the dwelling unit for a term beginning before the expiration of wrongfully quitting or abandoning tenant’s rental agreement, said new tenant shall sign a rental agreement notwithstanding the prior rental agreement.

C. If, after making reasonable efforts to rent the dwelling unit after abandonment, the landlord fails to re-rent the premises for rent equal or greater to rent owed under the rental agreement for the remainder of the term of the rental agreement, the landlord shall have cause of action for damages against the quitting or abandoning tenant for the rent owed under the rental agreement. If the tenancy is from month-to-month or week-to-week, the term of the rental agreement for this purpose is deemed to be a month or a week, as the case may be.

D. If the landlord fails to use reasonable efforts to make the dwelling unit available for rental or if the landlord accepts the abandonment as a surrender, the rental agreement is deemed to be terminated by the landlord as of the date the landlord has notice of the abandonment.

Section V.4.4. Abandoning, Surrendering or Eviction From Possession of Dwelling Unit, Disposition of Personal Property

If the tenant abandons or surrenders possession of the dwelling unit or has been lawfully removed from the premises through eviction proceedings and leaves household goods, furnishings, fixtures, or any other personal property in the dwelling unit, the landlord may take possession of the property and if, in the judgment of the landlord, the property has no ascertainable or apparent value, the landlord may dispose of the property without any duty of accounting or any liability to any party. Any property left with the landlord for a period of thirty (30) days or longer shall be conclusively determined to be abandoned and, as such, the landlord may dispose of said property in any manner which he deems reasonable and proper without liability to the tenant or any other interested party.
Section V.4.5.  
Delinquent Rent

A. If rent is unpaid when due, the landlord may bring an action for recovery of the rent at any time thereafter.

B. A landlord may terminate a rental agreement for failure to pay rent when due, if the tenant fails to pay the rent after ten (10) calendar days of the agreement date of payment, or ten (10) calendar days following the first day of the month in a month-to-month tenancy.

Section V.4.6.  
Lien on Tenant’s Property

A. A landlord shall have a lien upon that part of the property belonging to the tenant which has a reasonable relationship, as nearly as practicable, to the amount of the debt owed, which may be in a rental unit used by him at the time notice is given, for the proper charges owed by the tenant, and for the cost of enforcing the lien, with the right to possession of the property until the debt obligation is paid to the landlord. Provided, however, that such lien shall be secondary to the claim of any prior bona fide holder of chattel mortgage or to the rights of the conditional seller of such property, other than the tenant.

B. For purposes of this Section, property shall mean any baggage or other property belonging to the tenant which may be in the rental unit used by the tenant but which shall not include all tools, musical instruments, or books used by the tenant in any trade or profession, all family portraits and pictures, all wearing apparel, any type of prosthetic or orthopedic appliance, hearing devices, soap, tissues, washing machines, vaporizers, refrigerators, food, cooking and eating utensils, all other appliances personally used by the tenant for the protection of his health, or any baby bed or any other item used for the personal care of dependent children under the age of three (3) years.
Section V.4.7.
Procedure for Enforcement of Lien

A. The lien provided for by Section V.4.6 may be foreclosed by a sale of such personal property upon the notice and in the manner following. The notice shall contain:

1. The names of the owner and any other party or parties who may claim any interest in said property.
2. A description of the property to be sold.
3. The value of the rent provided and unpaid and the dates thereof.
4. The time and place of the sale.
5. The name of the party, agent, or attorney foreclosing such lien.

B. Such notice shall be posted on the front door of the tenant’s dwelling unit at least ten (10) days before the time therein specified for such sale, and a copy of said notice shall be mailed to the owner and any other party or parties claiming any interest in said property if known, at their last known post office address by certified mail on the day of posting. Party or parties who claim any interest in said property shall include owners of chattel mortgages and conditional sales contracts as shown by the records in the office of the county clerk in the county where the lien is foreclosed.

C. The liener or any other person may in good faith become a purchaser of the property sold.

D. Proceedings for foreclosure under this Code shall not be commenced until thirty (30) days after said lien has accrued.

CHAPTER 5
GROUNDS FOR EVICTION AND NOTICE TO PRE-EVICTION

Section V.5.1.
Grounds for Eviction

A. A person may be evicted for:
1. Nonpayment of rent under an agreement for the lease, purchase, or occupation of a dwelling when such payments are not made after ten (10) calendar days of the agreement date of payment, or ten (10) calendar days following the first day of the month in a month-to-month tenancy.

2. Any agreement in rent, costs, or damages which have been due and owing for thirty (30) calendar days or more. The receipt by a landlord of partial payments under an agreement shall not excuse the payment of any balance due upon demand.

3. Nuisance, intentional or reckless damage, destruction, or injury to the property of the landlord or other tenants, or disturbing another tenant’s right to quiet enjoyment of a dwelling unit.

4. Repeated violations of the rental agreement, any reasonable rules or regulations adopted in accordance with this Code, or any applicable building or housing codes.

5. Occupation of any premises without permission or agreement, following any reasonable demand by a person in authority over the premises to leave.

6. Under other terms in the rental agreement which do not conflict with the provisions of this Code.

Section V.5.2.
Notice to Quit Requirements

A. When Notice to Quit is Required. When a landlord desires to obtain possession of a dwelling unit, and when there exists one or more legally cognizable reasons to evict the tenant or tenants occupying the unit, the landlord shall give notice to the adult tenants to quit possession of such dwelling unit according to the provisions of this Section.

B. Purpose of Notice to Quit. The purpose of the Notice to Quit is to provide advance notice to the tenant of a specific problem which needs to be addressed. It is also intended to induce the tenant to enter into discussions with the landlord in order to resolve the problem.
C. Statement of Grounds for Eviction Required. The Notice to Quit shall be addressed to the adult tenant or tenants of the dwelling unit and shall state the legally cognizable reason(s) for termination of the tenancy and the date by which the tenant is required to quit possession of the dwelling unit.

D. Form of Notice. The Notice shall be in writing substantially in the following form:

"I (or we) hereby give you notice that you are to quit possession or occupancy of the dwelling unit now occupied by you at (here insert the address or other reasonable description of the location of the dwelling unit), on or before the (here insert the date) for the following reason (here insert the legally cognizable reason or reasons for the Notice to Quit possession using the statutory language or words of similar import). Signed, (here insert the signature, name and address of the landlord, as well as the date and place of signing)."

E. Time Requirements for Notice. The Notice must be delivered within the following periods of time:

1. No less than seven (7) calendar days prior to the date to quit specified in the Notice for any failure to pay rent or other payments required by the agreement.

2. No less than three (3) calendar days prior to the date to quit specified in the Notice for nuisance, serious injury to property, or injury to persons. In situations in which there is an emergency, such as a fire or condition making the dwelling unsafe or uninhabitable, or in situations involving an imminent or serious threat to public health or safety, the Notice may be made in a period of time which is reasonable, given the situation.

3. No less than fourteen (14) calendar days in all other situations.

4. Where the behavior of the tenant or a person on the property with tenant’s permission or under tenant’s control creates a serious risk of bodily harm to any person, including the tenant him/herself, or constitutes criminal activity, the Notice to Quit or any other pre-eviction notice shall not be required. The landlord, upon the landlord’s affidavit and other
sufficient proof of the existence of such activity, is allowed to file a complaint with the Ponca Tribal Court for the immediate eviction of such tenant. The complaint on such an eviction shall be designated as such referencing this Section. The complaint shall be adjudicated pursuant to Section VI of this Title. However, the time limitations contained therein shall not apply and the Court shall give priority to a hearing on such a complaint as due process will allow.

Section V.5.3.
Serving the Notice to Quit

A. Any Notice to Quit must be in writing, and must be delivered to the tenant in the following manner:

1. Delivery must be made by a person at least 18 years or older.

2. Delivery will be effective when it is:
   a. Personally delivered to a tenant with a copy delivered by mail; or
   b. Personally delivered to a person at least 18 years or older living in the premises with a copy delivered by mail; or
   c. Personally delivered to an agent at least 18 years or older or employee of the tenant with a copy delivered by mail.

3. If the Notice cannot be given by means of personal delivery, or tenant cannot be found, the Notice may be delivered by means of:
   a. Certified mail, return receipt requested, at the last known address of the tenant; or
   b. Securely taping a copy of the Notice to the main entry door of the premises in such a manner that it is not likely to blow away, and by posting a copy of the Notice in some public place near the premises, including a tribal office, public store, or other commonly frequented place, and by sending a copy first class mail, postage prepaid, addressed to the tenant at the premises.
4. The person giving notice must keep a copy of the Notice and proof of service in accordance with this Section, by affidavit or other manner recognized by law.

Section V.5.4.
Pre-Eviction Options; Review By The Tribal Court

A. Negotiated Settlement. After a Notice to Quit is served upon a tenant, the landlord and tenant may engage in discussions to avoid a proceeding to evict and to settle the issues between the parties. The agreement to enter into discussions will not affect the rights of the parties unless the parties reach an agreement to waive any of their rights.

B. Appeal to Executive Director. The tenant may appeal to the Authority’s Executive Director regarding the grounds relating to a Notice to Quit within fourteen (14) days of receiving the Notice to Quit, and the Executive Director shall meet with the tenant and render a decision on the matter. This meeting may take place by telephone or other remote form of instant communication. There is no protocol for this meeting and it may take whatever form reasonably allows the tenant to express tenant’s position to the Executive Director. The Executive Director shall render a decision either upholding the Notice to Quit or overturning the Notice to Quit within five (5) days of the meeting with the tenant. The Executive Director’s decision must be in writing and served upon the tenant. Service of the Executive Director’s decision shall be made in any manner as allowed for the service of the Notice to Quit as provided for under this Title V. If no meeting with the Executive Director is requested within 14 days of service of the Notice to Quit, the Notice to Quit becomes the final decision of the Authority. If a meeting with the Executive Director is requested, the decision of the Executive Director becomes the final decision of the Authority.

C. Petition For Review By The Ponca Tribal Court. The tenant may petition the Ponca Tribal Court for review of the Executive Director’s decision. A petition for review with the Ponca Tribal Court must be filed with that Court within fourteen (14) days from the date upon which the Executive Director’s decision is served upon tenant. If no petition for review is timely filed, the Executive Director’s decision is not appealable. The tenant’s petition may assert any defense to eviction as set forth in Section V.6.4. The tenant’s petition
shall not be refused filing for failure to meet a particular form of pleading. However, the Court shall not be prevented from dismissing the petition after review by the Court for failure to state a claim. There shall be no Court review of a Notice to Quit if that becomes the final decision of the Authority.

D. Review By The Ponca Tribal Court. In reviewing the Executive Director’s decision on a tenant’s petition for review, the Court shall take evidence and hear argument from the tenant and the Authority. The Court shall determine facts and apply the law. Should the Court determine that the facts and the law do not support the Executive Director’s decision, the Court shall rescind the Executive Director’s decision and order that the tenant remain in possession of the dwelling. Should the Court determine that the Executive Director’s decision is supported by the facts and the law, the Court shall order the immediate eviction of the tenant from the dwelling. The Authority shall file a responsive pleading to tenant’s petition. The Authority may file counter claims against the tenant for money damages for back rent, fees owed and destruction of property in response to tenant’s petition for review. The Court may grant the Authority whatever relief it finds is appropriate based upon the facts and law.

E. Procedure For Review By The Ponca Tribal Court. A hearing on tenant’s petition and the Authority’s counter claims, if any, shall be had no later than thirty (30) days after the tenant files the petition. This timing may be altered for reasonable accommodation for the Court’s calendar and as due process of law requires. Except as inconsistent with this Section, the rules and procedures applicable to any action in the tribal court shall apply to the tenant’s petition and the Authority’s counterclaims. Discovery shall be controlled by Section V.6.5.

F. Stay of Eviction. The tenant’s filing of a petition for review with the Court pursuant to Section V.5.4(C) shall stay an eviction while that review is pending. However, where the Authority can show that tenant’s continued occupancy creates a risk to the health or safety of other persons, the filing of a petition shall not act as a stay of eviction and upon a successful showing by the Authority, the Court can order the immediate eviction of the tenant. This showing shall be upon the Authority’s motion. If the tenant ultimately prevails on the tenant’s petition, the Court can order the tenant be
returned to possession of the dwelling. No damages shall lie against the Authority for making a motion under this Section.

G. Settlement Options. Tenant and the Authority are encouraged to maintain settlement negotiations throughout this process. In reaching an agreement, the parties may consider, but are not limited to the following options:

1. The parties may employ the use of advocates or attorneys;

2. The parties may employ the use of a mediator or conciliator;

3. The parties may agree to arbitrate the issues in binding arbitration;

4. The parties may agree to any other barter for services and goods, or to any other means of securing a fair exchange of value for the use of the dwelling;

5. The parties may agree to dismiss the matter in exchange for any agreement reached;

6. The parties may agree to stipulate to a judgment to be entered by the Court.

CHAPTER 6
JUDICIAL EVICTION PROCEDURES

Section V.6.1.
Summons and Complaint

A. At any time after a final decision by the Authority, if the tenant remains in possession of the dwelling without having timely filed a petition for review pursuant to Section V.5.4(C), the Authority can file a complaint in the Court for an order in aid of execution to remove the tenant from the dwelling pursuant to Section V.6.10. Such complaint may also include claims for money damages against the tenant for back rent, fees owed and damages to the landlord’s property. The complaint shall state at minimum:

1. The names of the adult tenant(s) against whom the suit is brought;

2. A description of the rental agreement, if any;
3. The address or reasonable description of the location of the premises;

4. The grounds for eviction;

5. A statement showing that the Notice to Quit and any Executive Director decision have been served in accordance with this Code or other applicable law; and

6. A statement of the relief demanded, including any claim(s) for possession of the dwelling unit, damages, fees, costs, or other special relief.

7. If the landlord is the Authority, a statement that the NPHA has complied with all required regulatory processes prior to filing the eviction action. The Authority shall attach the Notice to Quit and the Executive Director’s decision, if one, along with proof of service of all documents served, to the complaint.

B. If the tenant has not filed a petition for review pursuant to this Title, the tenant shall have no right to challenge the final decision of the Authority, other than to challenge the service of the Notice to Quit or service of the Executive Director’s decision. If the complaint is in compliance with this Section, the Court shall issue the order in aid of execution pursuant to Section V.6.10. The Authority’s claims for money damages and the entire complaint filed by any landlord other than the Authority shall be determined in accordance with Sections V.6.2 through V.6.14.

Section V.6.2.
Action Upon Filing Complaint

When a complaint is filed pursuant to V.6.1, it shall be immediately presented to a Tribal Court Judge. This shall be on the date of filing, or, if no judge is present, on the first regular Court day after filing or when a judge may first be found. The judge shall review the complaint and shall, if it appears to be in compliance with this Code and has been properly served on the tenant-defendant as set forth in this Code, issue an order of the Court requiring the tenant-defendant named in the complaint to appear before the Court on a certain date to contest the complaint. The date for appearance for answering the complaint shall be at the next scheduled Tribal Court day.
If the complaint was filed by the Authority, the defendant shall be limited to challenging the service of the Notice to Quit and service of the Executive Director’s decision, if one. Upon setting of the date for appearance, the plaintiff shall have defendant served with the complaint and a summons to appear for the Court date. If the complaint is filed by the Authority and the defendant makes no challenge to the service of the Notice to Quit or service of the Executive Director’s decision, if there is one, there shall be no further proceedings and the Court shall issue an order in aid of execution pursuant to Section V.6.10 removing the tenant from the dwelling.

Section V.6.3. Commencement of Proceedings

A. If the tenant appears before the Court in person or in writing to contest the complaint, the Court shall set a hearing date. Any written response shall state any defenses or factual disputes, and where any defendant appears in person, a written response shall be served upon the plaintiff within five (5) calendar days of any hearing, excluding weekends and holidays.

B. The Court shall set a hearing date which is no more than fifteen (15) calendar days following the date for appearance, except when the hearing date would fall on a weekend or holiday, and in such a situation on the first regular Court day following that date.

C. A defendant may, for good cause shown, and upon the payment of a reasonable sum for the fair rental value of the premises between the date on which the complaint was filed and the date of hearing, obtain an extension of time, beyond the fifteen (15) day period. The Court may refuse to extend the date of hearing where the complaint is based upon a nuisance, but shall not extend the date of hearing where the complaint is based upon conduct which is alleged to constitute a serious danger to public health, safety, or peace.

D. The Court may, in its discretion, on motion from the landlord order the tenant to pay into the Court rents for the use and occupancy during the pendency of the eviction case.
Section V.6.4.
Defenses

A. The Court shall grant the remedies allowed in this Code, unless it appears by the evidence that:

1. The premises are untenable, uninhabitable, or constitute a situation where there is a constructive eviction of the tenant, in that the premises are in such a condition, due to the fault of the landlord, that they constitute a real and serious hazard to human health and safety and not a mere inconvenience.

2. The landlord has failed or refused to make repairs which are his responsibility after a reasonable demand by a tenant to do so, without good cause, and the repairs are necessary for the reasonable enjoyment of the premises.

3. There are monies due and owing to the tenant because he has been required to make repairs which are the obligation of the landlord, and the landlord has failed or refused to make them after a reasonable notice. Such sums may be a complete or partial defense to a complaint for eviction, but only to the extent that such sums set off monies owed for occupancy. A tenant may be evicted after such a period if he fails or refuses to pay the reasonable rental value of the premises.

4. That due to the conduct of the landlord, there is injury to the tenant in such a way that justice requires that relief be modified or denied. This shall include the equitable defenses of estoppel, laches, fraud, misrepresentation, and breaches of serious and material obligations for public health, safety, and peace standards.

5. That there are such serious and material breaches of applicable housing law on the part of the landlord that it would be unjust to grant him a remedy.

6. The landlord is evicting the tenant because of his/her race, sex, sexual orientation, religion, age, marital status, family status, or because the tenant is disabled.
7. The landlord terminated the tenancy in retaliation for the tenant’s attempt to secure his rights under this Code or to force the landlord to comply with his duties under this Code.

8. Any other material or relevant fact the tenant might present that may explain why his eviction is unjust and unfair.

Section V.6.5. 
Discovery and Prehearing Proceedings

Extensive, prolonged, or time consuming discovery and prehearing proceedings will not be permitted, except in the interests of justice and for good cause shown by the moving party. Discovery shall be informal, and reasonably provided on demand of a party, and it shall be completed within five (5) calendar days of the date of hearing. Requests for discovery shall be made no later than three (3) calendar days following the setting of a hearing date. The Court may enter reasonable orders requiring discovery or protecting the rights of the parties upon reasonable notice.

Section V.6.6. Evidence

Evidence in proceedings under this Code shall be governed by the Federal Rules of Evidence.

Section V.6.7. Burden of Proof

The burden of proof in all proceedings under this Code shall be preponderance of the evidence.

Section V.6.8. Judgment

A. Within five (5) calendar days of the date of the hearing, the Court shall grant and enter judgment and the judgment shall grant all relief that the parties are entitled to as of the date of the judgment. The judgment may:

1. Order the immediate eviction of a tenant and delivery of the premises to the landlord;

2. Grant actual damages as provided in the agreement of the parties or this Code, including interest;
3. Order the parties to carry out an obligation required by law;

4. Establish a payment plan for the tenant;

5. Order rent payments out of per capita payment or through garnishment;

6. Establish a Power-of-Attorney in another person/agency to fulfill rights or obligations of either landlord or tenant;

7. Order the payment of attorneys’ fees and, where allowed by law or agreement, costs and expenses of litigation; or

8. Grant any relief provided in this Code or allowed in law or equity.

B. If a tenant fails to appear in person or in writing on or before the date of the hearing set pursuant to Section V.6.2, the Court shall enter judgment on behalf of the plaintiff following a hearing to determine whether relief should be granted and the kind of relief that should be granted.

Section V.6.9.
Form of Judgment

The judgment shall state the relief granted by the Court to any party, but need not state findings of fact or conclusions of law in support of the judgment. The judgment may state brief reasons for it. If a trial is held, the judge should, whenever possible, render his decision immediately after both parties have rested their case and award costs and restitution as appropriate.

Section V.6.10.
Execution of Judgment

A. An eviction order may be executed by a duly authorized law enforcement officer or officer of the Court, appointed by the Court for such a purpose. To execute the order, the officer shall:

1. Remove all the evicted persons from the dwelling and verbally order them not to re-enter;
2. Provide a copy of the order of eviction to all adult tenants;

3. Post copies of the order of eviction on the doors of the premises if there is not any adult tenant present at the time of execution; and

4. Supervise the removal of the possessions of the evicted persons.

B. Any law enforcement officer shall, upon receipt of an order of the Court, execute the judgment or order made by it within five (5) calendar days of the date of the judgment or order and make a report to the Court on what was done to enforce it. Any law enforcement officer to whom a judgment or order is given for enforcement who fails, in the absence of good faith, or refuses to execute it shall be subject to the payment of reasonable damages, costs, and expenses to a party for failure to execute the judgment and/or suspension from employment. This Section shall also apply to any judgment on behalf of a tenant obtained under the general tribal civil procedure code and/or tribal small claims procedure code. All other portions of the judgment shall be subject to execution in the manner otherwise provided under tribal law.

Section V.6.11.
Stay of Execution

A. If judgment for possession of the dwelling unit enters in favor of the landlord, the tenant may apply for a stay of execution of the judgment or order if within five (5) days of the judgment being rendered, the following is established:

1. Good and reasonable grounds affecting the well being of the party are stated; or

2. There would be no substantial prejudice or injury to the prevailing party during the period of the stay; or

3. A bond is posted or monies are paid to the Court, to satisfy the judgment or payment for the reasonable use and occupancy of the premises during the period of time following the judgment. No stay may exceed three months in the aggregate. The clerk shall distribute
such arrearages to the landlord in accordance with any order of the Court.

Section V.6.12.
Appeals

Appeals under this Chapter shall be according to the general tribal appellate provisions.

Section V.6.13.
Notice to Leave the Premises

A. Any notice to leave a premises, shall be by written order of the Court, and shall be delivered to the tenant in the following manner:

1. Delivery shall be made by:
   a. A law enforcement officer of the Tribe or an agency of the United States Government, or
   b. Any person authorized by the Tribal Court.

2. Delivery will be effective when it is:
   a. Personally delivered to a tenant with a copy delivered by mail; or
   b. Personally delivered to a person 18 years or older living in the premises with a copy delivered by mail; or
   c. Personally delivered to an agent 18 years or older or employee of the tenant with a copy delivered by mail.

3. If the notice cannot be given by means of personal delivery, or the tenant cannot be found, the notice may be delivered by means of:
   a. Certified mail, return receipt requested, at the last known address of the landlord or tenant, or
   b. Securely taping a copy of the notice to the main entry door of the premises in such a manner that it is not likely to blow away, and by posting a copy of the notice in some public place near the
premises, including a tribal office, public store, or other commonly frequented place and by sending a copy first class mail, postage prepaid, addressed to the tenant at the premises.

Section V.6.14. Forcible Eviction

A. Where the Court orders an eviction, and the defendant or any other occupant of the premises refuses to vacate voluntarily by the effective date of that Order, the defendant or other occupants may be forcibly removed from the premises by a tribal law enforcement officer or law enforcement officer authorized by the Court. At the hearing where the eviction is ordered, the Court shall inform the defendant that if he does not vacate the premises voluntarily by the effective date, he and the other occupants will be subject to forcible eviction, and their property will be subject to storage, sale, and disposal as set forth in subsection (C) below.

B. Following eviction, the Court may allow the landlord, the Authority or the United States Government access to any property leased by either of them for purposes of preserving and securing it.

C. Following forcible eviction of the defendant and/or other occupants, the former occupant’s personal property shall be stored by the owner of the premises for at least thirty (30) days, either on the premises or at another suitable location. In order to reclaim their property, the former occupants shall pay the reasonable costs of its removal and storage. If they do not pay such costs within thirty (30) days, the owner is authorized to sell the property in order to recover these costs. The landlord shall not condition return of the former occupant’s personal property on the payment of any costs or fees other than those of removal and storage of those personal possessions. Should the landlord attempt to condition return of personal possessions on payment of any other cost or fee, the landlord shall forfeit his right to the costs of removal and storage. Upon request by the former occupants, the landlord shall provide them with pertinent information concerning the sale, including the time, date, and location. Any proceeds from the sale in excess of the storage and removal costs shall be remitted to the former occupants. Nothing in this Section shall be construed to
prevent the former occupants from reclaiming property remaining after the sale if they can arrange to do so in a manner satisfactory to the owner. If the abandoned property is of cultural, religious, or ceremonial significance, the landlord shall have an affirmative duty to locate next of kin and/or contact the Tribe in order to return these items.

Section V.6.15.
No Self-Help Eviction

No landlord may compel a tenant to vacate any premises in a forceful fashion or way which causes a breach of the peace. All landlords shall give a Notice to Quit and obtain a Court order as provided in this Code.