

**Title IV**  
**Chapter 13**  
**CCT Eminent Domain Code**

**Section 1. Authority**

Pursuant to Article 6, Section 1 of the Constitution and Bylaws of the Chippewa Cree Indians of the Rocky Boy's Reservation Montana, the Chippewa Cree Tribal Business Committee has the authority to establish laws, rules and regulations within the exterior boundaries of the Rocky Boy Reservation.

**Section 2. Short Title**

This title shall be cited as the "Eminent Domain Code."

**Section 3. Definitions**

- (A) "Business Committee" means the Chippewa Cree Tribe Business Committee.
- (B) "Just Compensation" means the fair market value of the property as evidenced by at least one independent appraisal of the Property as of the date of the condemnation and other relevant evidence of the property value as of the date of the condemnation.
- (C) "Property" may include real and personal, tangible and intangible property and is the property in which the title or interest is being condemned.
- (D) "Reservation" or "Tribal Land" means the land within the exterior boundaries of the Chippewa Cree Tribe's reservation or any other land or property owned or controlled by the Tribe or adjacent dependent Indian Communities.
- (E) "Tribal Court" means the Chippewa Cree Tribal Court.
- (F) "Tribe" means the Chippewa Cree Tribe of the Rocky Boy's Reservation, a federally recognized Indian tribe, its governmental departments and agencies, and/or its tribally owned businesses.

**Section 4. Applicability and Purpose**

First Reading passed on Monday, July 16, 2018 during Business Committee meeting. Second Reading passed on Monday, July 30, 2018 during Administrative meeting. Third Reading passed on Monday, August 13, 2018 during Administrative meeting.

The Tribe shall have the power to condemn real and personal, tangible and intangible property within the external boundaries of the Chippewa Cree Tribe's reservation, whenever such property is deemed by Resolution of the Business Committee to be necessary for a public use, even if such property is already committed to an existing or prior public use. The Tribe may condemn any utility, facility or service for the use and control of the Tribe or entity of the Tribe, even if such utility, facility or service is already committed to an existing or prior public use. The Tribe may also acquire and condemn the usufructary right possessed by an individual to trust lands location within the reservation.

Any property condemned must be for a public purpose of the Tribe. A public purpose includes:

1. The possession, occupation, or enjoyment of property by the Tribe;
2. The use of property or a facility for the creation or functioning of public utilities;
3. The use of property or a facility for generation, transmission or distribution, sale or furnishing to or for the public of electricity for light, heat or power or other uses;
4. The use of property or a facility for the supplying and furnishing to or for the public of telecommunication services;
5. The use of property for highways, streets, roadways and parking facilities, including all areas for vehicular use for travel, ingress, egress and parking;
6. The acquisition of property for the health, safety, or welfare of the Tribe, as determined by the Business Committee; or
7. The public benefit of economic development, including an increase in tax base, general revenues, tourism, recreation, employment or general economic health.
8. Such other public uses as determined by the Business Committee.

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#### **Section 5. Compensation of Property Owner**

The Property owner or holder of such interest in the Property shall be justly compensated for such condemnation by the Tribe.

#### **Section 6. Condemnation Procedure**

The exercise of eminent domain or condemnation shall be initiated by the Business Committee by adopting a resolution containing the following information:

1. A statement identifying the Property to be condemned and that the Property is within the territorial jurisdiction of the Tribal Court;
2. A detailed description of the Property, or legal description if real property;
3. A statement identifying the public purpose for which the Property will be condemned;

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4. A listing of all current holders of property interests in the Property, the nature of their interest, and the Just Compensation afforded to each;
5. Any other statements or information necessary.

Such Resolution shall then be filed with the Tribal Court Clerk. The Resolution shall be accompanied by the Just Compensation in the form of checks, written to all owners of the Property right holders, in the amount of fair market value of each owner's interest in the property.

## **Section 7. Tribal Court Procedures**

The Tribal Court procedures for eminent domain or condemnation actions are as follows:

- (A) Within seven (7) calendar days of the filing of the Resolution, the Tribal Court Clerk shall serve upon or designate service upon each owner of interests in the Property of the condemnation action. The notice shall include a copy of the Resolution, a cover letter describing the action and containing the name of a point of contact within the Tribe who shall be responsible for executing the taking on behalf of the Tribe, the evidence used to determine Just Compensation, and the Notice of Due Date for Answer issued by the Clerk of the Tribal Court.
- (B) Within two (2) business days of the filing of a Resolution with the Tribal Court Clerk, the Clerk shall issue a Notice of Due Date for Answer, such date to be approximately twenty (20) days from the date of service.
- (C) The Tribal Court Clerk shall hold all checks for Just Compensation in their custody until the Due Date for Answer.
- (D) Until and on the Due Date for Answer, any owner or holder of interest in the Property served with a Notice of Due Date for Answer, may submit an Answer raising any legal issues regarding the filing or Resolution. The Tribal Court Clerk shall issue the checks of Just Compensation on the Due Date for Answer, unless such Answer raises a legal issue regarding the validity of the condemnation. In the event such Answer raises a legal issue regarding the validity of the condemnation, the checks shall be issued to such parties when such issue is resolved in favor of the Tribe.
- (E) If no Answer is submitted by the Due Date for Answer, the Tribal Court shall close the file for such action.
- (F) Once the payment has been issued to such parties in accordance with the procedures above, the Tribal Court Clerk shall record a copy of the judgment showing payment in the BIA Realty Office, and thereupon, the title or interest in the Property shall vest in the Tribe.

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## **Section 8. Determination of Compensation**

The holder or owner of interests in such Property subject to condemnation, shall be entitled to Just Compensation. Just Compensation shall be determined as of the date of the condemnation proceeding, meaning the date of the Resolution set forth by the Business Committee. Methods of determination for Just Compensation include appraisal evidence submitted by the parties to the action, and other evidence, such as testimony by the parties to the action.

The Tribal Court shall have the power to direct the payment of delinquent taxes, special assessments, and rental or other charges owed out of the amount determined to be Just Compensation and to make orders as the Tribal Court deems necessary with respect to encumbrances, liens, rents, insurance and other just and equitable charges.

## **Section 9. Compensation for Partial Condemnation**

In any condemnation proceeding in which there is a partial taking of property, the measure of compensation and damages resulting from the taking shall be the difference between the fair market value of the entire property immediately before the taking and the fair market value of the property remaining immediately after the taking.

## **Section 10. Rules of Civil Procedure**

Unless specifically provided to the contrary in the Eminent Domain Code or unless inconsistent with its provisions, The Chippewa Cree Tribal Law and Code, Title 2 shall govern proceedings pursuant thereto.

## **Section 11. Statute of Limitations**

An action pursuant to the Eminent Domain Code may be brought within any time period, provided the condemnation is for a public purpose consistent with this Eminent Domain Code.

## **Section 12. Severability**

If any provision of this Eminent Domain Code or its application to any person, entity or circumstance is held to be invalid by any court of competent jurisdiction, the remainder of the Eminent Domain Code or its application shall not be affected.

## **Section 13. Sovereign Immunity**

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Nothing in this Eminent Domain Code shall be construed as a waiver of the Tribe's inherent sovereign immunity, or any other immunity or privilege.

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