TRIBAL COUNCIL ACT 4.2

AN ACT RELATING TO
RETAIL, FOOD AND BEVERAGE SALES
TAXATION

BE IT ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL

SECTION 1.0 TITLE AND CODIFICATION

This Chapter shall be known as the Snoqualmie Tribal Sales Tax Act and shall be codified as Title 4, Chapter 2 of the Snoqualmie Tribal Code.

SECTION 2.0 STATUTORY AUTHORITY

The aboriginal and inherent sovereign power to govern the Snoqualmie Indian Tribe is vested in the Snoqualmie Tribal Council. The Snoqualmie Tribal Council has the authority to safeguard and promote the peace, safety, moral, and general welfare of the members of the Tribe by regulating the behavior of all persons within the jurisdiction of the Tribe, and by providing for the enactment and enforcement of laws of the Tribe. This authority includes the authority to manage the economic affairs and enterprises of the Tribe, and to levy taxes, fees or special assessments upon persons or property within the jurisdiction of the Snoqualmie Indian Tribe. Snoq. Tr. Const. Art. VIII, Sec. I(e), (h), and (j).

SECTION 3.0 PURPOSE AND SCOPE

The Tribe has a duty and obligation to all its members and to the Tribe itself, to protect and preserve the political integrity, economic security and health and welfare of the Tribe. The purpose of this Chapter is to regulate the sale of tangible personal property, and food and beverages on Snoqualmie Tribal Lands to protect the health and wellbeing of Tribal members as well as visitors to Snoqualmie Tribal Lands. The Tribal Council finds that imposing a tax on the sale of tangible personal property, and food and beverages by a Tribal Retailer on Snoqualmie Tribal Lands is necessary and essential to the Tribe’s ability to provide goods and services to its members and provide a portion of the revenues necessary to fund essential governmental functions.

SECTION 4.0 DEFINITIONS

Unless the context specifically requires otherwise, as used in this Chapter:

"Alcoholic Beverages" shall mean beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume, and includes all liquor, spirits, beer, and wine by the glass or bottle.
“Beverages” shall mean all alcoholic beverages and nonalcoholic drinks, including nonalcoholic beverages that contain natural or artificial sweeteners with 50% of less fruit/vegetable juice, such as soda pop, sports drinks and energy drinks, regardless of carbonation; bottled juice; vegetable or fruit juice; and coffee, espresso or tea.

“Business” and “Business Activity” shall mean all activities or acts, personal, corporate or otherwise, engaged in with the object of profit, gain, benefit or advantage, either directly or indirectly, wholly or in part, within Snoqualmie Tribal Lands.

“Consumer” shall mean any person who receives or comes into possession of meals, prepared food, beverages or property from a Tribal Retailer by means of a sale.

“Food” and “Food Ingredients” means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Items commonly used for medical or hygiene purposes, such as cough drops, breath sprays, and toothpaste are not ingested for taste or nutrition and are not considered a food or food ingredient.

“Meal” shall mean one or more items of prepared food or beverages other than alcoholic beverages.

“Person” means any natural person, trustee, court appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, district or other political subdivision, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees or other representative, acting either for himself or herself or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural is included in any circumstance.

“Prepared Food” shall mean heated foods, combined foods, or foods sold with utensils provided by the Tribal Retailer. Food sold with eating utensils provided by the Tribal Retailer, include plates, knives, forks, spoons, glasses, cups, napkins, or straws. Combined foods are foods where two or more food ingredients are mixed or combined by the Tribal Retailer for sale as a single item. “Prepared food” does not include the following food or food ingredients: food that is only cut, repackaged, or pasteurized by the Tribal Retailer; raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by Federal law so as to prevent foodborne illness; food sold in an unheated state by weight or volume as a single item; or bakery items such as bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas when not sold with eating utensils.

“Property” shall mean all tangible personal property of every kind and description, including fireworks, entry or admission fees charged for amusement, recreation services, or contests of chance. “Property” does not include a prize or promotional item.
“Records” shall mean any books, papers, documents, memoranda, supporting documents, schedules, attachments, lists, computer records, electronic data, business records, papers, vouchers, accounts and financial statements.

“Restaurant” shall mean and include any establishment having space and accommodation where food and beverages are regularly sold to the public for immediate, but not necessarily on-site, consumption, but excluding grocery stores, mini-markets, and convenience stores. “Restaurant” includes, but is not limited to, lunch counters, diners, coffee shops, espresso shops or bars, concession stands or counters, delicatessens, cocktail bars, lounges and cafeterias, and all similar spaces and accommodations where food and beverages are sold to the public for immediate consumption.

“Sale” or “Sales” shall mean all sales, barter, trades, exchanges, or other transfer of ownership for value of property at retail from a Tribal Retailer to any Consumer no matter how characterized that takes place on Snoqualmie Tribal Lands. “Sale” or “sales” excludes tips or gratuities and the amount of tax.

“Snoqualmie Tribal Lands” shall mean all lands over which the Tribe exercises jurisdiction, including but not limited to, its Reservation, other lands held in trust for the Tribe by the United States, and all of the Tribe’s “Indian Country” as defined by 18 U.S.C. § 1151.

“State” shall mean the state of Washington.

“Tax” shall mean the Tribal Sales Tax owed exclusive of penalties imposed.

“Tobacco Products” shall mean cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, including wrapping papers or tubes that contain any amount of tobacco (such as “blunts”), prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, but shall not include cigarettes.

“Tribal Council” shall mean the duly authorized governing body of the Tribe.

“Tribal Retailer” shall mean any entity owned in whole or in part by the Tribe, or licensed by the Tribe, conducting business within Snoqualmie Tribal Lands that sells meals, prepared food items, beverages, and/or property, including a Restaurant, so as to entitle such entity to all or a portion of the net receipts from the sale thereof, and specifically includes the Tribe’s Snoqualmie Casino and the Crescent Market at Snoqualmie.

“Tribe” shall mean the Snoqualmie Indian Tribe.
SECTION 5.0 IMPOSITION OF TAX

There is hereby levied and imposed a tax upon the privilege of conducting a sale of meals, prepared food, beverages, tobacco products and property by a Tribal Retailer within Snoqualmie Tribal Lands.

SECTION 6.0 EXCLUSIVITY OF TAX

This Tribal Sales Tax is exclusive of all other taxes that may be imposed by the Tribe or the State. For example, and without limitation, Tribal Retailers shall continue to impose the State spirits sales tax and the spirits liter tax on sales of spirits, and all taxes required on the sale of cigarettes under the Compact between the Tribe and the State.

SECTION 7.0 RATES OF TAX

The tax rate imposed under this Chapter shall be established by Resolution of the Tribal Council. The tax rate shall be no more than the effective local and State tax rate then established for the City of Snoqualmie, King County, Washington.

SECTION 8.0 TAX EXEMPTIONS

The following sales shall not be subject to the tax imposed under this Chapter:

(a) Sales of “bottled water,” defined as water that is placed in a sealed container or package for human consumption.

(b) Sales of “candy”, defined as a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces, including gum.

(c) Sales of “fuel” as governed by the Agreement Concerning Taxation of Motor Vehicle Fuel and Special Fuel Between the Snoqualmie Indian Tribe and the State of Washington for which a Tribal or State tax is already imposed and collected.

(d) Sales of spirits and cigarettes for which a Tribal or State tax is already imposed and collected.

(e) Sales of “newspapers”, defined as a publication issued regularly at stated intervals at least twice a month and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue, or any other binding of any kind, including any supplement of a printed newspaper.

(f) Sales made from coin-operated automatic food or beverage dispensing machines.

(g) Sales made directly to the Tribe for a Tribal government purpose or event.
SECTION 9.0 TAX COLLECTION

(a) The legal incidence of this tax is on every Tribal Retailer engaged in sales covered by this Chapter.

(b) Each Tribal Retailer shall have the duty to collect and pay the tax imposed on sales of meals, prepared food and beverages, tobacco products and property, whether the consumer pays by cash, credit, or voucher, and shall account for the tax imposed. The Tribal Retailer is solely responsible for paying the tax to the Tribe and shall be liable for the payment of the tax to the Tribe, regardless of whether an additional fee or charge is actually collected from consumers.

(c) Tribal Retailers may advertise and/or sell meals, prepared food, beverages, tobacco products or property at prices including tax. The election to include tax in the selling price in one area of a location does not preclude the Tribal Retailer from selling beverages or prepared food at a price exclusive of tax in another. If the sales price is exclusive of tax, and sales slips, sales invoices, or dinner checks are given to the customer, the tax must be separately stated on all such sales slips, sales invoices, or dinner checks as “Sales tax” or “Tax”.

SECTION 10.0 TAX PAYMENT

Taxes shall be remitted to the Tribe by each Tribal Retailer monthly. The Tribal Retailer shall provide to the Tribe a tax report showing tax receipts received during the month. The tax report and the payment of all taxes collected that month shall be filed with the Finance Department on the last day of the calendar month next succeeding the month for which the tax report is made. A copy of the tax report shall be concurrently submitted by the Tribal Retailer to the Treasurer of the Tribal Council.

SECTION 11.0 PENALTY FOR NONPAYMENT

Taxes not remitted on or before the due date are delinquent. Any Tribal Retailer who violates, disobeys, omits, neglects or refuses to comply with, or resists or opposes the enforcement of any of the provisions of this Chapter, may be assessed a penalty by the Tribal Council for each day said Tribal Retailer continues any such violation or permits any such violation to exist after notification thereof in an amount not to exceed $100.00 (One Hundred US Dollars) per day.

Section 12.0 USE OF SALES TAX PROCEEDS

Tax proceeds received by the Tribe under this Act shall be segregated as “Sales Tax Proceeds.” Sales Tax Proceeds shall be spent and allocated by the Tribal Council for essential government services and to benefit the general welfare of the Tribe and its members.
SECTION 13.0 RECORDS AND AUDIT

Each Tribal Retailer shall maintain accurate records of all sales to consumers, whether the consumer pays by cash, credit, or voucher, and shall make such records available for inspection by the Tribe. Records shall be managed and retained in accordance with the Tribal Central Records Management Act. The Tribe may retain a third-party, independent auditor for the purposes of verifying compliance with this Chapter.

SECTION 14.0 SOVEREIGN IMMUNITY

The Tribe specifically and unequivocally declares its sovereign immunity and does not waive its sovereign immunity, expressly or impliedly, under any provision of this Chapter, and nothing in this Chapter shall be construed as waiving the sovereign immunity of the Tribe or any of its agencies, departments, officials, agents or employees.

SECTION 15.0 SEVERABILITY

If any section, provision, phrase, addition, word, sentence or amendment of this Chapter or its application to any person is held invalid by a final judgment of a court of competent jurisdiction, such invalidity shall not affect the other provisions or application of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable.

SECTION 16.0 EFFECTIVE DATE

This Chapter shall take effect immediately following approval of its provisions by the Tribal Council and shall supersede and replace any and all prior ordinances of the Tribe relating to the subject matter of this Chapter.

ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL ON THE 11TH DAY OF DECEMBER 2014, IN SESSION DULY MET WITH 6 FOR, 0 AGAINST, AND 0 ABSTAINING. RESOLUTION NO. 173-2014.

CODIFIED BY THE SECRETARY OF TRIBAL AFFAIRS ON THIS 23RD DAY OF DECEMBER 2014.


[Signature]
TRIBAL SECRETARY