

TRIBAL COUNCIL ACT 8.3

AN ACT RELATING TO

ALCOHOLIC BEVERAGES AND CONTRABAND

BE IT ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL

SECTION 1.0 - INTRODUCTION

1.1 TITLE

This Chapter shall be known as the "Snoqualmie Tribal Liquor Control Ordinance" and shall be codified as Title 8, Chapter 3 of the Snoqualmie Tribal Code.

1.2 AUTHORITY

This Ordinance is enacted pursuant to the Act of August 15, 1953, 67 Stat. 586, codified at 18 U.S.C. Section 1161, by the authority of the Snoqualmie Tribal Council enumerated in Article VIII of the Constitution of the Snoqualmie Tribe of Indians, and in conformity with applicable Washington State laws and all attendant agreements with the state of Washington.

1.3 PURPOSE

The purpose of this Ordinance is to regulate and control the possession and sale of liquor on the Snoqualmie Tribe's Trust Land. The enactment of this Ordinance governing liquor possession and sale on the Snoqualmie Tribe's Trust Land will increase the ability of the Snoqualmie Tribal Council to control the sale, distribution and possession of liquor on the Snoqualmie Tribe's Trust Land and will provide an important source of revenue for the continued operation and strengthening of the Snoqualmie Tribal government and the delivery of Tribal government services.

1.4 EFFECTIVE DATE

This Ordinance shall be effective upon certification by the Secretary of the Interior and its publication in the Federal Register.

SECTION 2.0 - DECLARATION OF PUBLIC POLICY AND PURPOSE

- (a) The introduction possession and sale of liquor on the Trust Land is a matter of special concern to the Tribe.
- (b) Federal law currently prohibits the introduction of liquor into Indian Country (18 U.S.C. Section 1154), except as provided therein and expressly delegates to tribes the decision regarding when and to what extent liquor transactions shall be permitted (18 U.S.C. Section 1161).

- (c) The Tribal Council recognizes that a need still exists for strict Tribal regulation and control over liquor transactions within Trust Land because of the many potential problems associated with the unregulated or inadequately regulated sale, possession, distribution, and consumption of liquor. The Tribal Council finds that Tribal control and regulation of liquor is necessary to achieve maximum economic benefit to the Tribe, to protect the health and welfare of tribal members, and to address specific concerns relating to alcohol use on the Trust Land.
- (d) It is in the best interests of the Tribe to enact an ordinance governing liquor sales on Trust Land. Further, the Tribe has determined that the purchase, distribution and sale of liquor shall take place only at tribally-owned enterprises and/or tribally licensed establishments operating on Trust Land.

2.2 DEFINITIONS

As used in this title, the following words shall have the following meanings unless the context clearly requires otherwise:

- (a) "Alcohol" means that substance known as ethyl alcohol, hydrated oxide of ethyl, ethanol, or spirits of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance from whatever source or by whatever process produced.
- (b) "Alcoholic Beverage" is synonymous with the term "liquor" as defined in Section 2.2(d) of this Chapter.
- (c) "Beer" means any beverage such as beer, ale, lager beer, stout, and porter obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water and containing not more than eight percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. For the purposes of this title, any such beverage containing more than eight percent of alcohol by weight shall be referred to as "strong beer."
- (d) "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine, and beer), includes all fermented, spirituous, vinous, or malt liquor or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not containing alcohol, spirits, wine, or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain one percent or less of alcohol by weight. "Malt Liquor" means beer, strong beer, ale, stout and porter.
- (e) "Package" means any container or receptacle used for holding liquor.

- (f) "Public Place" includes state or county or tribal or federal highways or roads; buildings and grounds used for school purposes: public dance halls and grounds adjacent thereto; soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theaters, gaming facilities, entertainment centers, stores, garages, and filling stations which are open to and/or are generally used by the public and to which the public is permitted to have unrestricted access; public conveyances of all kinds and character; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public. For the purpose of this Ordinance, "Public Place" shall also include any establishment other than a single family home which is designed for or may be used by more than just the owner of the establishment.
- (g) "Sale" and "Sell" includes exchange, barter and traffic; and also includes the selling or supplying or distributing by any means whatsoever of liquor, or of any liquid known or described as beer or by any name whatsoever commonly used to describe malt or brewed liquor or of wine by any person to any person.
- (h) "Spirits" means any beverage, which contains alcohol obtained by distillation, including wines exceeding twenty-four percent percent of alcohol by weight.
- (i) "Wine" means any alcoholic beverage obtained by fermentation of fruits, (grapes, berries, apples, et cetera) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than twenty-four percent of alcohol by volume, including sweet wines fortified with wine spirits, such as port, sherry, muscatel, and angelica, not exceeding twenty-four percent of alcohol by volume and not less than one-half of one percent of alcohol by volume. For purposes of this Chapter, any beverage containing no more than fourteen percent of alcohol by volume when bottled or packaged by the manufacturer shall be referred to as "table wine," and any beverage containing alcohol in an amount more than fourteen percent by volume when bottled or packaged by the manufacturer shall be referred to as "fortified wine." However, "fortified wine" shall not include: (i) Wines that are both sealed or capped by cork closure and aged two years or more; and (ii) wines that contain more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and that have not been produced with the addition of wine spirits, brandy, or alcohol.
- (j) "General Council" means the General Council of the Snoqualmie Indian Tribe, which is composed of the voting membership of the Tribe.
- (k) "Tribal Council" means the Snoqualmie Tribal Council, which is the governing body of the Tribe.
- (l) "Alcohol Beverage Control Office" means the Tribal department which may be established by the Tribal Council for purposes carrying out the provisions of this Ordinance.

- (m) "Trust Land" means those lands which are held in trust by the United States for the Tribe and not for any individual Indian.
- (n) "Tribe" means the Snoqualmie Indian Tribe, a federally recognized sovereign Indian tribe.

2.3 POWERS OF ENFORCEMENT

2.3.1 THE TRIBAL COUNCIL

In furtherance of this ordinance, the Tribal Council shall have the following powers and duties:

- (a) To publish and enforce rules and regulations adopted by the Tribal Council governing the sale, manufacture, distribution, and possession of alcoholic beverages on the Trust Land;
- (b) To employ managers, accountants, security personnel, inspectors and such other persons as shall be reasonably necessary to allow the Tribal Council to perform its functions, all of whom shall be tribal employees;
- (c) To authorize the Alcohol Beverage Control Office to issue licenses permitting the sale or manufacture or distribution of liquor on the Trust Land and to revoke such licenses as provided herein;
- (d) To hold hearings on violations of this ordinance or for the issuance or revocation of licenses hereunder;
- (e) To bring suit in the appropriate court to enforce this ordinance as necessary;
- (f) To make such reports as may be required by the General Council;
- (g) To create the Alcohol Beverage Control Office which shall be authorized to collect fees levied or set by the Tribal Council, to keep accurate records, books, and accounts, and otherwise fulfill the duties prescribed in this Ordinance; and
- (h) To determine and seek damages for violations of the Ordinance.

2.3.2 LIMITATIONS ON POWERS

In the exercise of its powers and duties under this Ordinance, the Tribal Council and its individual members shall not:

- (a) Accept any gratuity, compensation or other thing of value from any liquor wholesaler, retailer or distributor or from any licensee;
- (b) Waive the inherent sovereign immunity of the Tribe from suit without the express written consent of the Tribal Council.

2.3.3 INSPECTION RIGHT

The premises on which liquor is sold or distributed shall be open for inspection by the Tribal Council at all reasonable times for the purpose of ascertaining whether the rules and regulations of the Tribal Council and this Ordinance are being complied with.

SECTION 3.0 - SALES OF LIQUOR

3.1 LICENSE REQUIRED

Sales of liquor and alcoholic beverages within the exterior boundaries of Trust Land may only be made at businesses at designated Public Places which hold a Tribal Liquor License. Persons in possession of valid liquor licenses issued by the state of Washington may continue to operate under a Washington State license until such time as an application for a Tribal license has been either approved or denied as provided for by Section 4 of this Ordinance.

3.2 SALES FOR CASH

All liquor sales within the Trust Land boundaries shall be on a cash only basis and no credit shall be extended to any person, organization, or entity; except that, this provision does not prevent the payment for purchases with the use of credit or debit cards.

3.3 SALE FOR PERSONAL CONSUMPTION

All sales shall be for the personal use and consumption of the purchaser. Resale of any alcoholic beverage purchased within the exterior boundaries of the Trust Land is prohibited. Any person who is not licensed pursuant to this Ordinance who purchases an alcoholic beverage within the boundaries of the Trust Land and sells it, whether in the original container or not, shall be guilty of a violation of this Ordinance and shall be subject to paying damages to the Tribe as set forth herein.

SECTION 4.0 - LICENSING

4.1 PROCEDURE

In order to control the proliferation of establishments on the Trust Land which sell or serve liquor by the bottle or by the drink, all persons or entities which desire to sell liquor within the exterior boundaries of the Trust Land must apply to the Tribe for a license to sell or serve liquor. Persons in possession of valid liquor licenses issued by the state of Washington who apply for a Tribal license may continue to operate under a Washington State license until such time as the application for a Tribal license has been either approved or denied.

4.2 APPLICATION

Any person or entity applying for a license to sell or serve liquor on Trust Land must complete the application provided for this purpose by the Tribe and pay such application fee as may be set from time to time by the Alcohol Beverage Control Office or, in the absence thereof, the Tribal Council, for this purpose. The application must be filled out completely in order to be considered.

4.3 ISSUANCE LICENSE

The Alcohol Beverage Control Office or, in the absence thereof, the Tribal Council may issue a license if it believes that such issuance is in the best interests of the Tribe and its members. Such decision shall be final.

4.4 PERIOD OF LICENSE

Each license may be issued for a period not to exceed two (2) years from the date of issuance.

4.5 RENEWAL OF LICENSE

A licensee may renew its license if the licensee has complied in full with this Ordinance; provided, however, that the Alcohol Beverage Control Office or, in the absence thereof, the Tribal Council may refuse to renew a license if it finds that doing so would not be in the best interests of the health, safety and welfare of the Tribe and its members.

4.6 REVOCATION OF LICENSE

The Alcohol Beverage Control Office or, in the absence thereof, the Tribal Council may revoke a license for reasonable cause upon notice and hearing at which the licensee is given an opportunity to respond to any charges against it and to demonstrate why the license should not be suspended or revoked.

4.7 TRANSFERABILITY OF LICENSE

Licenses issued by the Alcohol Beverage Control Office or, in the absence thereof, the Tribal Council shall not be transferable and may only be utilized by the person or entity in whose name it was issued.

SECTION 5.0 - TAXES

[RESERVED]

SECTION 6.0 - RULES, REGULATIONS, AND ENFORCEMENT

- (a) In any proceeding under this Ordinance, conviction of one unlawful sale or distribution of liquor shall establish prima facie intent of unlawfully keeping liquor for sale, selling liquor or distributing liquor in violation of this Ordinance.
- (b) Any person who shall sell or offer for sale or distribute or transport in any manner, liquor in violation of this ordinance, or who shall operate or shall have liquor for sale in his possession without a license, shall be guilty of a violation of this Ordinance subjecting him or her to civil damages assessed by the Tribal Council.
- (c) Any person within the boundaries of the Trust Land who buys liquor from any person other than a properly licensed facility shall be guilty of a violation of this Ordinance.

- (d) Any person who keeps or possesses liquor upon his person or in any place or on premises conducted or maintained by his principal or agent with the intent to sell or distribute it contrary to the provisions of this title, shall be guilty of a violation of this Ordinance.
- (e) Any person who knowingly sells liquor to a person under the influence of liquor shall be guilty of a violation of this Ordinance.
- (f) Any person engaging wholly or in part in the business of carrying passengers for hire, and every agent, servant, or employee of such person, who shall knowingly permit any person to drink liquor in any public conveyance, shall be guilty of a violation of this Ordinance. Any person who shall drink liquor in a public conveyance shall be guilty of a violation of this Ordinance.
- (g) No person under the age of 21 years shall consume, acquire or have in his possession any liquor or alcoholic beverage. No person shall permit any other person under the age of 21 to consume liquor on his premises or any premises under his control except in those situations set out in this section. Any person violating this section shall be guilty of a separate violation of this Ordinance for each and every drink so consumed.
- (h) Any person who shall sell or provide any liquor to any person under the age of 21 years shall be guilty of a violation of this Ordinance for each such sale or drink provided.
- (i) Any person who transfers in any manner an identification of age to a person under the age of 21 years for the purpose of permitting such person to obtain liquor shall be guilty of an offense; provided that corroborative testimony of a witness other than the underage person shall be a requirement of finding a violation of this Ordinance.
- (j) Any person who attempts to purchase an alcoholic beverage through the use of false or altered identification which falsely purports to show the individual to be over the age of 21 years shall be guilty of violating this ordinance.
- (k) Any person guilty of a violation of this Ordinance shall be liable to pay the Tribe the amount of \$500 per violation as civil damages to defray the Tribe's cost of enforcement of this ordinance.

When requested by the provider of liquor, any person shall be required to present official documentation of the bearer's age, signature and photograph. Official documentation includes one of the following:

- (1) Driver's license or identification card validly issued by any state department of motor vehicles;
- (2) United States Active Duty Military identification;
- (3) Passport;
- (4) Snoqualmie Tribal Identification Card.

- (l) Liquor which is possessed, including for sale, contrary to the terms of this Ordinance is declared to be contraband. Any Tribal agent, employee or officer who is authorized by the Tribal Council to enforce this section shall seize all contraband and preserve it in accordance with the provisions established for the preservation of impounded property.
- (m) Upon being found in violation of the Ordinance, the party shall forfeit all right, title and interest in the items seized which shall become the property of the Tribe.

SECTION 7.0 - ABATEMENT OF NUISANCE

- (a) Any room, house, building, vehicle, structure, or other place where liquor is sold, manufactured, bartered, exchanged, given away furnished, or otherwise disposed of in violation of the provision of this ordinance or of any other Tribal law relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, and all property kept in and used in maintaining such place, is hereby declared to be a nuisance.
- (b) The Chairperson of the Tribal Council shall, upon vote of the Tribal Council, institute and maintain an action in the name of the Tribe to abate and perpetually enjoin any nuisance declared under this section in the Snoqualmie Tribal Court. In addition to all other remedies at Tribal law, the Snoqualmie Tribal Court may also order the room, house, building, vehicle, structure, or place closed for a period of one (1) year or until the owner, lessee, tenant, or occupant thereof shall give bond of sufficient sum of not less than \$25,000 payable to the Tribe and conditioned that liquor will not be thereafter manufactured, kept, sold, bartered, exchanged, given away, furnished, or otherwise disposed of thereof in violation of the provisions of this Ordinance or of any other applicable Tribal law and that he will pay all fines, costs and damages assessed against him for any violation of this Ordinance or other Tribal laws. If any conditions of the bond be violated, the bond may be recovered for the use of the Tribe.
- (c) In all instances where any person has been found in violation of this Ordinance relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, the Snoqualmie Tribal Court may abate as a nuisance any real estate or other property involved in the violation of the Ordinance, and violation of this Ordinance shall be prima facie evidence that the room, house, building, vehicle, structure, or place again which such action is brought is a public nuisance.
- (d) Nothing in this section shall be deemed or construed as a waiver of the Tribe's inherent sovereign immunity from unconsented suit.

SECTION 8.0 - SEVERABILITY AND EFFECTIVE DATE

- (a) If any provision or application of this Ordinance is determined by review to be invalid, such determination shall not be held to render ineffectual the remaining portions of this ordinance or to render such provisions inapplicable to other persons or circumstances.
- (b) This Ordinance shall be effective on such date as the Secretary of the Interior certifies this Ordinance and publishes the same in the Federal Register.

- (c) Any and all prior enactments of the Tribal Council which are inconsistent with the provisions of this Ordinance are hereby rescinded.

SECTION 9.0 - AMENDMENT

This Ordinance may only be amended by a vote of the Tribal Council.

ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL ON THE 27TH DAY OF SEPTEMBER, 2001 IN SESSION DULY MET WITH 9 FOR, 0 AGAINST, AND 0 ABSTAINING. TRIBAL COUNCIL ACT 03-01; RESOLUTION NO. 53-2001.

FURTHER AMENDED BY THE SNOQUALMIE TRIBAL COUNCIL ON THE 9TH DAY OF JANUARY, 2014 IN SESSION DULY MET WITH 7 FOR, 0 AGAINST, AND 0 ABSTAINING. RESOLUTION NO. 02-2014.

CODIFIED BY THE SNOQUALMIE TRIBAL SECRETARY ON THE 9TH DAY OF JANUARY, 2014.


Alisa Burley, TRIBAL SECRETARY
1-9-14

