

SKOKOMISH FUEL SALES AND TAX ORDINANCE

Adopted by Resolution No. 08-046 (April 16, 2008)

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General Provisions

5.06.001 Title

This Ordinance shall be known as the Skokomish Fuel Sales and Tax Ordinance.

5.06.002 Authority

This Ordinance is enacted by the Skokomish Tribal Council, the governing body of the Skokomish Indian Tribe, which has the authority to enact laws and ordinances governing the conduct of individuals and defining offenses against the Tribe; to impose taxes on all persons and property within the Tribe's jurisdiction; to negotiate and contract with agencies and officers of federal, state, local and tribal governments; to establish business enterprises as branches of the Skokomish tribal government and to engage in business

activities which promote the economic well being of the Skokomish Tribe and its members.

5.06.003 Findings

The Skokomish Tribal Council finds that regulation of the sale of motor vehicle and special fuels is essential to the health and welfare of the Skokomish Indian Tribe and its members. The Tribal Council further finds that tax revenues are essential to the Tribe's ability to provide goods and services, and to finance government operations and economic development for the safety, health and welfare of the Skokomish Indian Tribe, its members and members of the community.

The Skokomish Tribal Council finds that there are substantial unmet needs in funding for road construction and maintenance, transportation services, public safety, infrastructure, and governmental programs that serve Tribal members, employees, customers and other community members.

5.06.004 Purpose

In the public interest and for the health and welfare of the Skokomish Indian Tribe, its members and community members, the Skokomish Tribal Council, in exercise of its authority under the Tribal Constitution, declares its purpose by the provisions of this chapter to regulate the sale of motor vehicle fuel and to impose, collect and administer taxes on the retail sale of motor vehicle fuel.

5.06.005 Scope and Jurisdiction

(a) This Ordinance shall apply to the full extent of the sovereign jurisdiction of the Skokomish Indian Tribe.

(b) Compliance with this Ordinance is hereby made a condition of the use of any land or premises under the sovereign jurisdiction of the Skokomish Indian Tribe.

(c) Any person who resides, conducts business, engages in a business transaction, receives benefits from the Tribal government, including police, fire or emergency services, acts under Tribal authority, or enters the lands under the jurisdiction of the Skokomish Indian Tribe, shall be deemed to have consented to the following:

(1) to be bound by the terms of this Ordinance; and

(2) to the exercise of civil jurisdiction by the Skokomish Tribal Court over said person in legal actions arising pursuant to this Ordinance; and

(3) to detainment, service of summons and process, and search and seizure, in conjunction with legal actions arising pursuant to this Ordinance.

5.06.006 Sovereign Immunity Preserved

Nothing in this Ordinance is intended or shall be construed as a waiver of the sovereign immunity, rights, powers or privileges of the Skokomish Indian Tribe.

5.06.007 Definitions

(a) “Court” means the Skokomish Tribal Court.

(b) “Essential Governmental Services” means services that the Skokomish Indian Tribe provides to its members, community members and visitors in order to fulfill its governmental responsibilities.

(c) “Indian Country,” consistent with the meaning given in 18 U.S.C. §1151, means:

1. All land within the limits of the Skokomish Indian Reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; and
2. All Indian allotments or other lands held in trust for a Skokomish Tribal Member or the Tribe, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

(d) “Motor Vehicle Fuel” means and includes all fuels normally sold for use in a motor vehicle or motorboat, including gasoline and diesel products.

(e) “Non-Indian” means an individual who is neither a Tribal Member nor a nonmember Indian.

(f) “Nonmember Indian” means an enrolled member of a federally recognized Indian Tribe other than the Skokomish Indian Tribe.

(g) “Person” means and includes any natural individual, company, partnership, firm, joint venture, association, corporation, estate, trust, political entity, or other identifiable entity.

(h) “Skokomish Indian Reservation” or “Reservation” means the area recognized as the Skokomish Indian Reservation by the United States Department of the Interior.

(i) “State” means the State of Washington.

(j) “State Motor Vehicle Fuel Tax” means the Washington State Motor Vehicle Fuel Tax.

(k) “Tribal Council” means the Skokomish Indian Tribal Council.

(l) “Tribal Member” means an enrolled member of the Skokomish Indian Tribe.

(m) “Tribal Retailer” means a fuel retailer wholly owned by the Skokomish Tribe and located in Indian Country.

(n) “Tribe” or “Tribal” means or refers to the Skokomish Indian Tribe.

Sales and Taxation

5.06.008 Tribal Sales Permitted

Only Tribal Retailers are authorized to make sales of Motor Vehicle Fuel to the ultimate consumer within the Reservation.

5.06.009 State Compliance Required

Tribal Retailers, businesses and Tribal Members are required to purchase only fuel on which the State fuel tax has been paid, and purchase fuel only from persons or companies operating lawfully in accordance with State law.

5.06.010 Fuel Tax Assessed

(a) The Tribe shall impose taxes on all sales by Tribal Retailers of Motor Vehicle Fuel within the Reservation commensurate with the rate imposed by the State. The Tribal tax shall be the amount of any credit or exemption the Tribe obtains from the State tax by agreement.

(b) Sales of Motor Vehicle Fuel shall not be subject to a general Tribal sales tax rate under other provision of Tribal law.

5.06.011 Sales to Skokomish Tribal Members

(a) Sales made to Skokomish Tribal Members may be made at a reduced price of ten (10) cents per gallon or such other rate to be made at the discretion of the Tribal Council.

(b) Sales made to Skokomish Tribal Members at a discount must be recorded as such by Tribal Retailers.

5.06.012 No Reduction of Price

Tribal Retailers may not pass on to the retail customer the State tax included in the price of fuel and use the amounts of tax remitted or refunded to the Tribe pursuant to an

agreement with the State to reduce the price at which fuel is sold from the Tribal Retailer's outlet.

5.06.013 Non-Compliance with Ordinance

Any person, including Tribal Retailers, who makes sales of fuel in violation of any provision of this Ordinance shall be subject to civil action pursuant to the Skokomish Rules of Civil Procedure.

Tax Collection and Use

5.06.014 Collection and Payment of Tax

Every Tribal Retailer is liable for collecting the Tribal Fuel Tax. The Tribal Retailer shall maintain accurate written records for the purchase and retail sales of Motor Vehicle Fuel, and shall make such records available for inspection by the Tribal Chief Financial Officer and/or third party auditor retained by the Tribe. Records shall be maintained for no less than three years after the audit is accepted by the appropriate federal oversight agency.

5.06.015 Use of Fuel Tax by Tribe

Fuel tax proceeds retained by the Tribe or amounts equivalent thereto shall be expended upon planning, construction, and maintenance of roads, bridges, boat ramps; transit services and facilities; transportation planning; police services; and other highway-related purposes.

Severability

5.06.016 Severability

In the event that any section or provision of this Code is held invalid, it is the intent of the Tribal Council that the remaining sections or provisions of this Code shall continue in full force and effect.