

# REPOSSESSION OF CONSUMER GOODS

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### GENERAL PROVISIONS

#### **3.08.001 Purpose**

The purpose of the Repossession of Consumer Goods Ordinance is to provide a procedure whereby off-reservation financial institutions may repossess consumer goods purchased by Skokomish tribal members when the goods are located within the territorial jurisdiction of the Skokomish Indian Tribe.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

#### **3.08.002 Liberal Construction**

This Ordinance shall be liberally construed to give full effect to the objectives and purposes for which it was enacted.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

#### **3.08.003 Severability**

If any provision of this Ordinance, or its application to any person, legal entity, or circumstance is held invalid, the remainder of the Ordinance, or the application of the provision to other persons, legal entities, or circumstances, shall not be affected.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

#### **3.08.004 Jurisdiction**

The provisions of this Ordinance shall apply to the fullest extent of the sovereign jurisdiction of the Skokomish Indian Tribe authorized by the Constitution of the Skokomish Indian Tribe, the Treaty of Point No Point and applicable federal law. The

provisions of this Ordinance shall apply to and be in conformity with all agreements and other cooperative arrangements entered into by the Skokomish Indian Tribe.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

### **3.08.005 Definitions**

The following terms, wherever used or referred to in this Ordinance, shall have the following respective meanings, unless a different meaning clearly appears from the context:

- (a) "Consumer Goods" means goods regularly used or bought for use for personal, family or household purposes, including vehicles and mobile homes.
- (b) "Territorial Jurisdiction" is given the meaning found in the Constitution of the Skokomish Indian Tribe, Article I.
- (c) "Tribal Court" means the court of the Skokomish Indian Tribe, located on the Skokomish Indian Reservation.
- (d) "Tribal Land" is consistent with the meaning of Indian country given in 18 United States Code (U.S.C.) section 1151, and includes:
  - i. 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.
  - ii. All lands placed in trust or restricted status for individual member Indians or for the Tribe, and such other lands as may hereafter be added thereto under any law of the United States, except as otherwise provided by law.
  - iii. All Indian allotments or other lands held in trust for a Tribal Member or the Tribe, the Indian titles to which have not been extinguished, including rights of way running through the same.
- (e) "Tribal Member" means an enrolled member of the Skokomish Indian Tribe.
- (f) "Tribe" means the Skokomish Indian Tribe.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

## **REPOSSESSION**

### **3.08.010 Application**

- (a) The Consumer Goods of Tribal Members possessed under credit agreements shall not be taken by any person, or agent of any person, except in strict compliance with this Ordinance.

- (b) This Ordinance applies to Consumer Goods which are being purchased by Tribal Members and which are located within the Territorial Jurisdiction of the Tribe.
- (c) *Authority of the Tribal Court.* The Tribal Court is hereby authorized to adjudicate requests for repossession, as provided herein, and to enforce all provisions of this Ordinance.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

**3.08.011 Procedure**

- (a) Any person desiring to repossess Consumer Goods pursuant to any credit agreement where the goods are security for a debt, or other arrangement involving credit, must petition the Tribal Court for an order permitting entry upon Tribal Land for the purpose of repossessing Consumer Goods from a Tribal Member. The Rules of the Skokomish Tribal Court, S.T.C. 3.01, shall apply to such petitions.
- (b) The person seeking repossession shall file the appropriate form with the clerk of the Tribal Court. The petitioner must include the following information:
  - (1) Name, business address and telephone number of petitioner.
  - (2) Name, address, and telephone number of debtor.
  - (3) Detailed description of property to be repossessed.
  - (4) Name, address and telephone number of person authorized to carry out repossession.
  - (5) All supporting documentation, including but not limited to credit applications and credit agreements.
- (c) The Tribal Court shall review the petition and supporting documentation and determine, on a case by case basis, whether the petitioner has a valid claim for repossession which warrants entry upon Tribal Land for the purpose of that repossession only.
- (d) A valid claim for repossession shall be evidenced by:
  - (1) Proof that the Tribal Member signed a credit application and/or credit agreement informing him or her that repossession is a remedy; and
  - (2) Proof that the Tribal Member has not made payments; and

- (3) Proof that the Tribal Member has missed enough payments to trigger the repossession remedy under the credit application and/or credit agreement.
- (e) If the Tribal Court finds that the petitioner has a valid claim for repossession, the Tribal Court shall enter an order permitting the petitioner, or the petitioner's agent, to enter upon Tribal Land only for the purpose of repossessing the Consumer Goods identified in the petition.
- (f) If the Tribal Court does not find that the petitioner has a valid claim for repossession, the Tribal Court shall enter an order so saying. The petitioner shall not have permission to enter upon Tribal Land. If the petitioner, or the petitioner's agent, attempts to do so, he or she shall be in violation of this Ordinance under section 3.08.012.
- (g) A successful petitioner, or petitioner's agent, may request an escort from the Skokomish Public Safety Department if desired.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

**3.08.012 Violation – Penalty**

- (a) Any nonmember of the Tribe, found to be in willful violation of this Ordinance, may be excluded from the Skokomish Indian Reservation in accordance with S.T.C. 3.05, Civil Exclusion and Removal.
- (b) Any business whose employees are found to be in willful violation of this Ordinance may be denied the privilege of doing business within the Skokomish Indian Reservation. Any business that uses agents or others to repossess property in willful violation of this Ordinance in order to avoid entering the Skokomish Indian Reservation shall not have the privilege of enforcing any contract within the Skokomish Indian Reservation. It shall be an affirmative defense to any action in debt or contract or to enforce a foreign judgment that the petitioner or the petitioner's agent was in willful violation of this Ordinance or has engaged in a pattern or practice of violation of this Ordinance.
- (c) Any person who violates any provision of this Ordinance shall be subject to a fine of not less than \$2,500. In addition, any person who violates this Ordinance is deemed to have committed the infraction of civil trespass pursuant to S.T.C. 3.07, the Skokomish Tribal Civil Trespass Ordinance, and may be subject to enforcement and damages under that ordinance.
- (d) The Tribal Court may award damages for any repossession that is willful, fraudulent, or unconscionable.

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

Legislative History prior to July 5, 2017

Adopted by Resolution No. 07-127 (September 27, 2007)

Reaffirmed by Resolution No. 17-100 (July 5, 2017)

+Ordinance and/or amendments not attached to the resolution in the Skokomish Tribal Archives