

**SKOKOMISH GAMING CRIMINAL AND CIVIL INFRACTION ORDINANCE**

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**ENACTMENT**

<b>4.02B.110</b>	<b>Repeal</b>
<b>4.02B.120</b>	<b>Effective Date</b>
<b>4.02B.130</b>	<b>Future Amendment</b>

**ENFORCEMENT**

**4.02B.010 Purpose; Gambling and Gaming – Use of Terms**

- (a) This Ordinance is enacted for the purposes of enforcing the provisions of the Tribal – State Compact for Class III Gaming between the Skokomish Indian Tribe and the State of Washington (the “Compact”), regulating all other classes of gaming within the jurisdiction of the Skokomish Indian Tribe, and protecting the public health, safety and welfare.
- (b) The use of the title “Skokomish Gaming Criminal and Civil Infraction Ordinance” is for administrative purposes only. Any offense set forth in Chapter 4.02B STC, except to the extent as expressly provided in the text thereof, shall be generally applicable.
- (c) For the purposes of this Chapter:
  - (1) The terms “Gambling” and “Gaming” are synonymous; and
  - (2) The term “Person” includes a person and/or entity.

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)

#### 4.02B.020 Criminal and Civil Infractions; Penalties

- (a) Advancing money or property to be used for extortionate credit. A person who advances money or property, whether as a gift, loan, investment, or pursuant to a partnership or profit-sharing agreement or otherwise, to any person, with the knowledge that it is the intention of that person to use the money or property so advanced, directly or indirectly, for the purpose of making extortionate extensions of credit, is guilty of an offense.
- (b) Alter or Counterfeit: It is unlawful to alter or counterfeit any license or permit normally issued by any federal, state or tribal government.
- (c) Applicants and licenses – Bribes to public officials, employees, agents. No applicant or licensee under Chapters 4.02 and 4.02A STC or regulations adopted pursuant thereto shall give or provide, or offer to give or provide, directly or indirectly, to any public official or employee or agent of this state or Tribe, or any of its agencies or political subdivisions, any compensation or reward, or share of the money or property paid or received through gambling activities, in consideration for obtaining any license, authorization, permission or privilege to participate in any gaming operations except as authorized by Chapters 4.02 or 4.02A STC or regulations adopted pursuant thereto. Violation of this section is an offense.
- (d) Causing person to violate Chapters 4.02, 4.02A, 4.02B STC or regulations adopted pursuant thereto. Any person who knowingly causes, aids, abets, or conspires with another to cause any person to violate any provision of Chapter 4.02, 4.02A, 4.02B STC or regulations adopted pursuant thereto shall be guilty of an offense.
- (e) Cheating. It is unlawful for any person to engage in cheating. "Cheating," as used in this Ordinance, means to:
- (1) employ or attempt to employ any device, scheme, or artifice to defraud any other participant or any operator;
  - (2) engage in any act, practice, or course of operation as would operate as a fraud or deceit upon any other participant or any operator;
  - (3) engage in any act, practice, or course of operation while participating in a gambling activity with the intent of cheating any other participant or the operator to gain an advantage in the game over the other participant or operator; or
  - (4) cause, aid, abet, or conspire with another person to cause any other person to violate the foregoing subsections (1) through (3).
- (f) Collection of unlawful debt. It is unlawful for any person knowingly to collect any unlawful debt.
- (g) Conducting activity without license. It is unlawful for any person to conduct any activity for which a license is required by Chapters 4.02 or 4.02A STC, or by regulation of the Tribal Gaming Commission, without the required license issued by

the Tribal Gaming Commission.

- (h) Criminal Impersonation. As set forth in STC 9.03.050 (Criminal Impersonation), however, if the offense occurs within a gaming facility or has a nexus to a Gaming Activity governed by the Compact the penalty provisions of STC 4.02B.020(yy) and (zz) shall be applicable.
- (i) Criminal Profiteering Act – Definitions. Unless the context requires the contrary, the Courts of the Skokomish Indian Tribe may adopt the definitions set forth in RCW 9A.82.010 for use in the prosecution of the following offenses: STC 4.02B.020(l) (Extortionate-extension of credit); STC 4.02B.020(a) (Advancing money or property to be used for extortionate credit); STC 4.02B.020(tt) (Use of extortionate means to collect extensions of credit); STC 4.02B.020(f) (Collection of unlawful debt); STC 4.02B.020(pp) (Trafficking in stolen property); STC 4.02B.020(y) (Leading organized crime); STC 4.02B.020(x) (Influencing outcome of sporting event); STC 4.02B.020(uu) (Use of proceeds of criminal profiteering—Controlling enterprise or realty—Conspiracy or attempt); and STC 4.02B.100(j) (Criminal profiteering lien—Trustee’s failure to comply, evasion of procedures or lien).
- (j) Criminal profiteering lien—Trustee’s failure to comply, evasion of procedures or lien. A trustee who knowingly fails to comply with STC 4.02B.100 or conveys title to real property after service of a notice by the Court as authorized in STC 4.02B.100 with the intent to evade the provisions thereof with respect to such property is guilty of an offense.
- (k) Extortion. As set forth in STC 9.03.060 (Extortion), however, if the offense occurs within a gaming facility or has a nexus to a Gaming Activity governed by the Compact the penalty provisions of STC 4.02B.020(yy) and (zz) shall be applicable.
- (l) Extortionate-extension of credit.
- (1) A person who knowingly makes an extortionate extension of credit is guilty of an offense.
- (2) In a prosecution hereunder, if it is shown that all of the following factors are present in connection with the extension of credit, there is prima facie evidence that the extension of credit was extortionate:
- (A) The repayment of the extension of credit, or the performance of any promise given in consideration thereof, would be unenforceable at the time the extension of credit was made through civil judicial processes.
- (B) The extension of credit was made at a rate of interest in excess of an annual rate of forty-five percent calculated according to the actuarial method of allocating payments made on a debt between principal and interest, pursuant to which a payment is applied first to the accumulated interest and the balance is applied to the unpaid principal.
- (C) The creditor intended the debtor to believe that failure to comply with the

terms of the extension of credit would be enforced by extortionate means.

(D) Upon the making of the extension of credit, the total of the extensions of credit by the creditor to the debtor then outstanding, including any unpaid interest or similar charges, exceeded one hundred dollars.

(m) False certification. A person is guilty of false certification, if, being an officer authorized to take a proof or acknowledgment of an instrument which by law may be recorded, he or she knowingly certifies falsely that the execution of such instrument was acknowledged by any party thereto or that the execution thereof was proved.

(n) False or misleading entries or statements, refusal to produce records. Whoever, in any application for a license under Chapters 4.02 or 4.02A STC or regulations adopted pursuant thereto or in any book or record required to be maintained by the Tribal Gaming Commission or in any report required to be submitted to the Tribal Gaming Commission, shall make any false or misleading statement, or make any false or misleading entry or willfully fail to maintain or make any entry required to be maintained or made, or who willfully refuses to produce for inspection by the Tribal Gaming Commission, or its designee, any book, record, or document required to be maintained or made by federal, state law or tribal law, shall be guilty of an offense.

(o) False Statements – Applications for Employment. It is unlawful to knowingly make a false statement in an application for employment with any Gaming Operation, the Tribal Gaming Commission, or the Tribal Gaming Agency.

(p) False Statement – Contracting. It is unlawful to knowingly make a false statement in any contract with any Gaming Operation, the Tribal Gaming Commission, or the Tribal Gaming Agency.

(q) Financial Fraud.

(1) A person is guilty of unlawful production of payment instruments if he or she prints or produces a check or other payment instrument in the name of a person or entity, or with the routing number or account number of a person or entity, without the permission of the person or entity to manufacture or reproduce such payment instrument with such name, routing number, or account number.

(2) A person is guilty of unlawful possession of payment instruments if he or she possesses two or more checks or other payment instruments, alone or in combination:

(A) In the name of a person or entity, or with the routing number or account number of a person or entity, without the permission of the person or entity to possess such payment instrument, and with intent either to deprive the person of possession of such payment instrument or to commit theft, forgery, or identity theft; or

(B) In the name of a fictitious person or entity, or with a fictitious routing number or account number of a person or entity, with intent to use the payment

instruments to commit theft, forgery, or identity theft.

EXCEPT, this subsection does not apply to: a person or financial institution that has lawful possession of a check, which is endorsed to that person or financial institution; and a person or financial institution that processes checks for a lawful business purpose.

- (3) A person is guilty of unlawful possession of a personal identification device if the person possesses a personal identification device with intent to use such device to commit theft, forgery, or identity theft. "Personal identification device" includes any machine or instrument whose purpose is to manufacture or print any driver's license or identification card issued by any state or the federal government or tribal government, or any employee identification issued by any employer, public or private, including but not limited to badges and identification cards, or any credit or debit card.
- (4) A person is guilty of unlawful possession of fictitious identification if the person possesses a personal identification card with a fictitious person's identification with intent to use such identification card to commit theft, forgery, or identity theft, when the possession does not amount to a violation of STC 4.02B.020(v) (Identity theft).
- (5) A person is guilty of unlawful possession of instruments of financial fraud if the person possesses a check-making machine, equipment, or software, with intent to use or distribute checks for purposes of defrauding an account holder, business, financial institution, or any other person or organization.
- (6) This section does not apply to:
  - (A) A person, business, or other entity, that has lawful possession of a check, which is endorsed to that person, business, or other entity;
  - (B) A financial institution or other entity that processes checks for a lawful business purpose;
  - (C) A person engaged in a lawful business who obtains another person's personal identification in the ordinary course of that lawful business;
  - (D) A person who obtains another person's personal identification for the sole purpose of misrepresenting his or her age; and
  - (E) A law enforcement agency that produces or displays counterfeit credit or debit cards, checks or other payment instruments, or personal identification devices for investigative or educational purposes.
- (7) In a proceeding under this section that is related to an identity theft under STC 4.02B.020(v), the crime will be considered to have been committed in any locality where the person whose means of identification or financial information was appropriated resides, or in which any part of the offense took place, regardless of

whether the defendant was ever actually in that locality.

(8) A violation of this section is an offense.

(r) Forgery. As set forth in STC 9.03.130 (Forgery), however, if the offense occurs within a gaming facility or has a nexus to a Gaming Activity governed by the Compact the penalty provisions of STC 4.02B.020(yy) and (zz) shall be applicable.

(s) Gambling activities by persons under age eighteen prohibited. It is unlawful for any person under the age of eighteen to play in authorized gambling activities including, but not limited to, punchboards, pull-tabs, or card games, or to participate in fund-raising events. Persons under the age of eighteen may play: (1) bingo, raffles, and amusement game activities only as provided in Tribal Gaming Commission regulations; and (2) class I games, as defined in Chapters 4.02 or 4.02A STC.

(t) Gambling information, transmitting or receiving. Whoever knowingly transmits or receives gambling information by telephone, telegraph, radio, semaphore, the internet, a telecommunications transmission system, or similar means, or knowingly installs or maintains equipment for the transmission or receipt of gambling information shall be guilty of an offense. However, this section shall not apply:

(1) To such information transmitted or received or equipment installed or maintained relating to activities authorized by the Compact or Chapters 4.02 or 4.02A STC or any regulations or Internal Control Standards adopted thereunder; or

(2) To any act or acts in furtherance thereof when conducted in compliance with the Compact or Chapters 4.02 or 4.02A STC or any regulations or Internal Control Standards adopted thereunder.

(u) General violations – penalty. Any person who violates any provision of Chapters 4.02 or 4.02A STC or any regulation promulgated thereunder for which no penalty is otherwise provided, or knowingly causes, aids, abets, or conspires with another to cause any person to violate any provision of Chapters 4.02 or 4.02A STC is guilty of an offense.

(v) Identity theft.

(1) No person may knowingly obtain, possess, use, or transfer a means of identification or financial information of another person, living or dead, with the intent to commit, or to aid or abet, any crime.

(2) Violation of this section when the accused or an accomplice violates subsection (1) of this section and obtains credit, money, goods, services, or anything else of value in excess of one thousand five hundred dollars in value, or when the accused knowingly targets a senior or vulnerable individual in carrying out a violation of subsection (1) of this section, shall constitute identity theft in the first degree. Identity theft is punishable as set forth in STC 4.02B.020(yy) and (zz).

(3) A person is guilty of identity theft in the second degree when he or she violates

subsection (1) of this section under circumstances not amounting to identity theft in the first degree. Identity theft is punishable as set forth in STC 4.02B.020(yy) and (zz).

- (4) Each crime prosecuted under this section shall be punished separately under the laws of the Skokomish Indian Tribe, unless it is the same criminal conduct as any other crime.
- (5) Whenever any series of transactions involving a single person's means of identification or financial information which constitute identity theft would, when considered separately, constitute identity theft in the second degree because of value, and the series of transactions are a part of a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all of the transactions shall be the value considered in determining the degree of identity theft involved.
- (6) Every person who, in the commission of identity theft, shall commit any other crime may be punished therefor as well as for the identity theft, and may be prosecuted for each crime separately.
- (7) A person who violates this section is liable for civil damages of one thousand dollars or actual damages, whichever is greater, including costs to repair the victim's credit record, and reasonable attorneys' fees as determined by the court.
- (8) In a proceeding under this section, the crime will be considered to have been committed in any locality where the person whose means of identification or financial information was appropriated resides, or in which any part of the offense took place, regardless of whether the defendant was ever actually in that locality.
- (9) The provisions of this section do not apply to any person who obtains another person's driver's license or other form of identification for the sole purpose of misrepresenting his or her age.
- (10) In a proceeding under this section in which a person's means of identification or financial information was used without that person's authorization, and when there has been a conviction, the sentencing court may issue such orders as are necessary to correct a public record that contains false information resulting from a violation of this section.

(w) Improperly obtaining financial information.

- (1) No person may obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, financial information from a financial information repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association:
  - (A) By knowingly making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial information repository with the intent to deceive the officer, employee, or agent into

relying on that statement or representation for purposes of releasing the financial information;

(B) By knowingly making a false, fictitious, or fraudulent statement or representation to a customer of a financial information repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association with the intent to deceive the customer into releasing financial information or authorizing the release of such information;

(C) By knowingly providing any document to an officer, employee, or agent of a financial information repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association, knowing that the document is forged, counterfeit, lost, or stolen; was fraudulently obtained; or contains a false, fictitious, or fraudulent statement or representation, if the document is provided with the intent to deceive the officer, employee, or agent to release the financial information.

(2) No person may request another person to obtain financial information from a financial information repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association and knows or should have known that the person will obtain or attempt to obtain the information from the financial institution repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association in any manner described in subsection (1) of this section.

(3) No provision of this section shall be construed so as to prevent any action by a law enforcement agency, or any officer, employee, or agent of such agency, or any action of an agent of the financial information repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association when working in conjunction with a law enforcement agency.

(4) This section does not apply to:

(A) Efforts by the financial information repository to test security procedures or systems of the financial institution repository for maintaining the confidentiality of customer information;

(B) Investigation of alleged employee misconduct or negligence; or

(C) Efforts to recover financial or personal information of the financial institution obtained or received by another person in any manner described in subsection (1) or (2) of this section.

(5) Violation of this section is punishable as set forth in STC 4.02B.020(yy) and (zz).

(6) A person who violates this section is liable for five hundred dollars or actual damages, whichever is greater, and reasonable attorneys' fees.

(x) Influencing outcome of sporting event. Whoever knowingly gives, promises, or offers

to any professional or amateur baseball, football, hockey, polo, tennis, horse race, or basketball player or boxer or any player or referee or other official who participates or expects to participate in any professional or amateur game or sport, or to any manager, coach, or trainer of any team or participant or prospective participant in any such game, contest, or sport, any benefit with intent to influence the person to lose or try to lose or cause to be lost or to limit the person's or person's team's margin of victory or defeat, or in the case of a referee or other official to affect the decisions or the performance of the official's duties in any way, in a baseball, football, hockey, or basketball game, boxing, tennis, horse race, or polo match, or any professional or amateur sport or game, in which the player or participant or referee or other official is taking part or expects to take part, or has any duty or connection therewith, is guilty of an offense.

(y) Leading organized crime.

(1) A person commits the offense of leading organized crime by:

(A) Intentionally organizing, managing, directing, supervising, or financing any three or more persons with the intent to engage in a pattern of criminal profiteering activity; or

(B) Intentionally inciting or inducing others to engage in violence or intimidation with the intent to further or promote the accomplishment of a pattern of criminal profiteering activity.

(z) Loans – Accepting: It is unlawful for the Tribal Gaming Commission, Tribal Gaming Agency, any Gaming Operation, and any employees or officers thereof to knowingly accept a loan, financing, or other thing of value from a participant in any gaming activity licensed by the Tribal Gaming Commission.

(aa) Loans – Offering. It is unlawful for any participant in any gaming activity licensed by the Tribal Gaming Commission to knowingly offer a loan, financing, or other thing of value to the Tribal Gaming Commission, Tribal Gaming Agency, any Gaming Operation, and to any employees or officers thereof.

(bb) Making or possessing motor vehicle theft tools.

(1) Any person who makes or mends, or causes to be made or mended, uses, or has in his or her possession any motor vehicle theft tool, that is adapted, designed, or commonly used for the commission of motor vehicle related theft, under circumstances evincing an intent to use or employ, or allow the same to be used or employed, in the commission of motor vehicle theft, or knowing that the same is intended to be so used, is guilty of making or having motor vehicle theft tools.

(2) For the purpose of this section, motor vehicle theft tool includes, but is not limited to, the following: Slim Jim, false master key, master purpose key, altered or shaved key, trial or jigglers key, slide hammer, lock puller, picklock, bit, nipper, any other implement shown by facts and circumstances that is intended to be

used in the commission of a motor vehicle related theft, or knowing that the same is intended to be so used.

(3) For the purposes of this section, the following definitions apply:

- (A) "False master" or "master key" is any key or other device made or altered to fit locks or ignitions of multiple vehicles, or vehicles other than that for which the key was originally manufactured.
- (B) "Altered or shaved key" is any key so altered, by cutting, filing, or other means, to fit multiple vehicles or vehicles other than the vehicles for which the key was originally manufactured.
- (C) "Trial keys" or "jiggler keys" are keys or sets designed or altered to manipulate a vehicle locking mechanism other than the lock for which the key was originally manufactured.
- (D) Making or having motor vehicle theft tools is an offense.

(cc) Money laundering.

(1) A person is guilty of money laundering when that person conducts or attempts to conduct a financial transaction involving the proceeds of specified unlawful activity and:

- (A) Knows the property is proceeds of specified unlawful activity; or
- (B) Knows that the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds, and acts recklessly as to whether the property is proceeds of specified unlawful activity; or
- (C) Knows that the transaction is designed in whole or in part to avoid a transaction reporting requirement under federal law.

(2) In consideration of the constitutional right to counsel afforded by the Constitution of the Skokomish Indian Tribe, an additional proof requirement is imposed when a case involves a licensed attorney who accepts a fee for representing a client in an actual criminal investigation or proceeding. In these situations, the prosecution is required to prove that the attorney accepted proceeds of specified unlawful activity with intent:

- (A) To conceal or disguise the nature, location, source, ownership, or control of the proceeds, knowing the property is proceeds of specified unlawful activity; or
- (B) To avoid a transaction reporting requirement under federal law.

in subsection (1) of this section.

(3) An additional proof requirement is imposed when a case involves a financial institution and one or more of its employees. In these situations, the prosecution is required to prove that proceeds of specified unlawful activity were accepted with intent:

(A) To conceal or disguised [disguise] the nature, location, source, ownership, or control of the proceeds, knowing the property is proceeds of specified unlawful activity; or

(B) To avoid a transaction reporting requirement under federal law.

The proof required by this subsection is in addition to the requirements contained in subsection (1) of this section.

(4) Money laundering is punishable as set forth in STC 4.02B.020(yy) and (zz).

(5) A person who violates this section is also liable for a civil penalty of twice the value of the proceeds involved in the financial transaction and for the costs of the suit, including reasonable investigative and attorneys' fees.

(6) Proceedings hereunder shall be in addition to any other criminal penalties, civil penalties, or forfeitures authorized under the laws of the Skokomish Indian Tribe.

(dd) Obscuring the identity of a machine. As set forth in STC 9.03.140 (Obscuring the Identity of a Machine), however, if the offense occurs within a gaming facility or has a nexus to a Gaming Activity governed by the Compact the penalty provisions of STC 4.02B.020(yy) and (zz) shall be applicable.

(ee) Obstruction of public servant. As set forth in STC 9.07.010 (Intimidation of a Public Officer), however, if the offense occurs within a gaming facility or has a nexus to a Gaming Activity governed by the Compact the penalty provisions of STC 4.02B.020(yy) and (zz) shall be applicable.

(ff) Obtaining a signature by deception or duress. As set forth in STC 9.03.040 (Obtaining a Signature by Deception or Duress), however, if the offense occurs within a gaming facility or has a nexus to a Gaming Activity governed by the Compact the penalty provisions of STC 4.02B.020(yy) and (zz) shall be applicable.

(gg) Ownership or interest in gambling device. It is unlawful for any person to knowingly own, manufacture, possess, buy, sell, rent, lease, finance, hold a security interest in, store, repair, or transport any gambling device or offer or solicit any interest therein, whether through an agent or employee or otherwise, unless duly licensed pursuant to Chapters 4.02 or 4.02A STC or by the State of Washington.

(hh) Parimutuel system permitted. It shall be unlawful, unless provided otherwise in

the Compact:

- (1) to conduct pool selling, bookmaking, or to circulate hand books; or
- (2) to bet or wager on any horse race other than by the parimutuel method; or
- (3) for any licensee to take more than the percentage provided in RCW 67.16.170 and 67.16.175; or
- (4) for any licensee to compute breaks in the parimutuel system at more than ten cents.

(ii) Possession of another's identification.

- (1) A person is guilty of possession of another's identification if the person knowingly possesses personal identification bearing another person's identity, when the person possessing the personal identification does not have the other person's permission to possess it, and when the possession does not amount to a violation of STC 4.02B.020(v) (Identity theft).
- (2) This section does not apply to:
  - (A) A person who obtains, by means other than theft, another person's personal identification for the sole purpose of misrepresenting his or her age;
  - (B) A person engaged in a lawful business who obtains another person's personal identification in the ordinary course of business;
  - (C) A person who finds another person's lost personal identification, does not intend to deprive the other person of the personal identification or to use it to commit a crime, and takes reasonably prompt steps to return it to its owner; and
  - (D) A law enforcement agency that produces or displays counterfeit credit or debit cards, checks or other payment instruments, or personal identification for investigative or educational purposes.
- (3) In a proceeding under this section that is related to an identity theft under STC 4.02B.020(v) (Identity theft), the crime will be considered to have been committed in any locality where the person whose means of identification or financial information was appropriated resides, or in which any part of the offense took place, regardless of whether the defendant was ever actually in that locality.
- (4) A violation of this section is an offense.

(jj) Possession of stolen vehicle; Possessing stolen property. As set forth in STC 9.03.110 (Receiving Stolen Property), however, if the offense occurs within a gaming facility or has a nexus to a Gaming Activity governed by the Compact the penalty provisions of STC 4.02B.020(yy) and (zz) shall be applicable.

(kk) Persons prohibited from gambling. Any member of the Tribal Gaming Commission, the director, or an employee of the Tribal Gaming Agency or any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any member of the Tribal Gaming Commission, the director or an employee of the Tribal Gaming Agency is prohibited from gambling at any facility licensed by the Tribal Gaming Commission. Violation of this section is an offense.

(ll) Professional gambling.

(1) It is unlawful for any person to engage in professional gambling not authorized by Chapters 4.02 or 4.02A STC. A person is engaged in "professional gambling" for the purposes of this Chapters 4.02, 4.02A and 4.02B STC when:

(A) acting other than as a player or in the manner authorized, the person knowingly engages in conduct which materially aids any form of gambling activity; or

(B) acting other than in a manner authorized, the person pays a fee to participate in a card game, contest of chance, lottery, or other gambling activity; or

(C) acting other than as a player or in the manner authorized, the person knowingly accepts or receives money or other property pursuant to an agreement or understanding with any other person whereby he or she participates or is to participate in the proceeds of gambling activity; or

(D) the person engages in bookmaking in a manner not authorized; or

(E) the person conducts a lottery in a manner not authorized; or

(F) the person holds, conducts, or operates live greyhound racing for public exhibition, parimutuel betting, or special exhibition events, if such activities are conducted for gambling purposes. A person may not transmit or receive intrastate or interstate simulcasting of greyhound racing for commercial, parimutuel, or exhibition purposes, if such activities are conducted for gambling purposes.

(2) Conduct under this section, except as exempted under Chapters 4.02 or 4.02A or 4.02B STC, includes but is not limited to conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases, or toward any other phase of its operation.

(3) If a person having substantial proprietary or other authoritative control over any premises shall permit the premises to be used with the person's knowledge for

the purpose of conducting gambling activity other than gambling activities authorized by Chapters 4.02 or 4.02A or 4.02B STC, and acting other than as a player, and the person permits such to occur or continue or makes no effort to prevent its occurrence or continuation, the person shall be considered as being engaged in professional gambling: PROVIDED, That the proprietor of a bowling establishment who awards prizes obtained from player contributions, to players successfully knocking down pins upon the contingency of identifiable pins being placed in a specified position or combination of positions, as designated by the posted rules of the bowling establishment, where the proprietor does not participate in the proceeds of the "prize fund," shall not be construed to be engaging in "professional gambling" within the meaning of Chapter 4.02B STC.

- (4) It shall not be unlawful and the penalties provided for professional gambling shall not apply to the activities authorized by Chapters 4.02 or 4.02A or 4.02B STC when conducted in compliance with the provisions thereof and in accordance with the regulations of the Tribal Gaming Commission.
- (mm) Robbery. As set forth in STC 9.02.080 (Robbery), however, if the offense occurs within a gaming facility or has a nexus to a Gaming Activity governed by the Compact the penalty provisions of STC 4.02B.020(yy) and (zz) shall be applicable.
- (nn) Tampering. It is unlawful to tamper with any gaming equipment or conspire to tamper or manipulate the outcome or the payoff of any gaming equipment or otherwise interfere with the proper functioning of the gaming equipment.
- (oo) Theft; Theft of motor vehicle; Theft – General. As set forth in STC 9.03.090 (Theft), however, if the offense occurs within a gaming facility or has a nexus to a Gaming Activity governed by the Compact the penalty provisions of STC 4.02B.020(yy) and (zz) shall be applicable.
- (pp) Trafficking in stolen property.
- (1) A person who knowingly initiates, organizes, plans, finances, directs, manages, or supervises the theft of property for sale to others, or who knowingly traffics in stolen property, is guilty of trafficking in stolen property.
- (2) A person who recklessly traffics in stolen property is also guilty of trafficking in stolen property.
- (qq) Unlawful issuance of checks or drafts. As set forth in STC 9.03.100 (Unlawful Issuance of Checks), however, if the offense occurs within a gaming facility or has a nexus to a Gaming Activity governed by the Compact the penalty provisions of STC 4.02B.020(yy) and (zz) shall be applicable.
- (rr) Unlawful manufacture of telecommunication device. A person is guilty of unlawful manufacture of a telecommunication device if he or she knowingly and with intent to avoid payment or to facilitate avoidance of payment:

- (1) Manufactures, produces, or assembles a telecommunication device;
  - (2) Modifies, alters, programs, or reprograms a telecommunication device to be capable of acquiring or of facilitating the acquisition of telecommunication service without the consent of the telecommunication service provider; or
  - (3) Writes, creates, or modifies a computer program that he or she knows is thereby capable of being used to manufacture a telecommunication device.
- (ss) Unlawful sale of telecommunication device. A person is guilty of unlawful sale of a telecommunication device if he or she sells, leases, exchanges, or offers to sell, lease, or exchange:
- (1) A telecommunication device, knowing that the purchaser, lessee, or recipient, or a third person, intends to use the device to avoid payment or to facilitate avoidance of payment for telecommunication services; or
  - (2) Any material, including data, computer software, or other information and equipment, knowing that the purchaser, lessee, or recipient, or a third person, intends to use the material to avoid payment or to facilitate avoidance of payment for telecommunication services.
- (tt) Use of extortionate means to collect extensions of credit. A person who knowingly participates in any way in the use of any extortionate means to collect or attempt to collect any extensions of credit or to punish any person for the nonrepayment thereof, is guilty of an offense.
- (uu) Use of proceeds of criminal profiteering—Controlling enterprise or realty—Conspiracy or attempt.
- (1) It is unlawful for a person who has knowingly received any of the proceeds derived, directly or indirectly, from a pattern of criminal profiteering activity to use or invest, whether directly or indirectly, any part of the proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.
  - (2) It is unlawful for a person knowingly to acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property through a pattern of criminal profiteering activity.
  - (3) It is unlawful for a person knowingly to conspire or attempt to violate subsection (1) or (2) of this section.
- (vv) Violations relating to fraud or deceit. Any person or association or organization operating any gambling activity who or which, directly or indirectly, shall in the course of such operation:
- (1) employ any device, scheme, or artifice to defraud; or

- (2) make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statement made not misleading, in the light of the circumstances under which said statement is made; or
- (3) engage in any act, practice or course of operation as would operate as a fraud or deceit upon any person;

shall be guilty of an offense.

- (ww) Working in gambling activity without license as violation. Any person who works as an employee or agent or in a similar capacity for another person in connection with the operation of an activity for which a license is required under Chapters 4.02 or 4.02A STC or by Tribal Gaming Commission regulation without having obtained the applicable license required by the Tribal Gaming Commission shall be guilty of an offense.
- (xx) Gambling and Related Crimes under the Compact. The RCWs incorporated by reference in the Compact which have not already been included in this Ordinance or other ordinances and codes of the Tribe, as presently constituted or hereafter amended are incorporated herein as provisions of this Ordinance subject to the limitations contained herein and in the Compact. The incorporated provisions are subject to the following limitations: the incorporated provisions shall apply only to offenses which occur within Tribal Lands; any penalties referenced therein are superseded by the provisions set forth Sections 4.02B.020(yy) and (zz), below; any reference to a court contained therein shall mean the Courts of the Skokomish Indian Tribe; any reference to Attorney General or County Prosecutor or similar designation contained therein shall mean the Skokomish Tribal Prosecutor and the Skokomish Tribal Prosecutor shall have sole charging authority for violations of this section; the incorporated provisions do not supersede or repeal any similar offenses set forth in other codes or ordinances of the Skokomish Indian Tribe; any of the provisions or portions of the provisions of the Revised Code of Washington listed in this Section which, by their nature, would not apply to the Skokomish Indian Tribe, Tribal Lands, or the Courts of the Skokomish Indian Tribe, or the incorporation of which would undermine the underlying principles and purposes of the Compact, or which are inconsistent with the provisions of the Compact are not incorporated herein; the Courts of the Skokomish Indian Tribe shall have no authority to issue a judgment or lien against real property held in trust or restricted status; and nothing contained within any of the incorporated provisions shall constitute a waiver of the Skokomish Indian Tribe's or Skokomish Indian Tribal Enterprise, Incorporated's sovereign immunity to suit or a waiver of any other defense.
- (yy) Criminal offense. With respect to enrolled members of federally recognized Indian Tribes, a violation of STC 4.02B.020 is punishable as class A offenses with up to 1 year in jail and a five thousand dollar (\$5,000) fine by the Skokomish Tribal Court.

- (zz) Civil infraction. With respect to non-Indians, a violation of STC 4.02B.020 is punishable as a civil infraction by the Skokomish Tribal Court unless the prosecution thereof is prohibited by federal law. The fine for a civil infraction shall not exceed five thousand dollars (\$5,000) per violation.
- (aaa) Adjudicative Proceedings; Administrative Charges – Licensee: The prosecution and conviction for one or more criminal offenses or civil infractions before the Skokomish Tribal Court:
- (1) is not a prerequisite to bringing Administrative Charges; and
  - (2) such prosecution or conviction does not preclude the bringing of separate Administrative Charges; and does not violated the double jeopardy prohibition of Article IX of the Skokomish Constitution. Administrative Charges are not criminal charges.

Administrative Charges are governed by the procedures and penalties set forth in Chapters 4.02 and/or 4.02A STC and any regulations promulgated and issued thereunder.

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)  
Amended by Resolution No. 2021-014 (Effective February 24, 2021)

#### **4.02B.030 Electronic benefits cards – Prohibited uses – Violations**

It is civil infraction for any person receiving public assistance to use an electronic benefit card or cash obtained with an electronic benefits card contrary to the provisions of RCW 74.08.580. The maximum fine to be imposed is five hundred dollars (\$500) per violation.

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)

#### **4.02B.040 Use of public assistance electronic benefit cards prohibited – Licensee to report violations – Suspension of license**

- (a) Any licensee authorized under Chapters 4.02 or 4.02A STC is prohibited from allowing the use of public assistance electronic benefit cards for the purpose of participating in any of the activities authorized under Chapters 4.02 or 4.02A STC.
- (b) Any licensee authorized under Chapters 4.02 or 4.02A STC shall report to the Washington department of social and health services and Tribal Gaming Commission any known violations of STC 4.02B.030 and STC 4.02B.040. Nothing contained herein shall limit the powers of the Tribal Gaming Commission to maintain, suspend, revoke, or reinstate a license granted under Chapters 4.02 or 4.02A STC.

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)

#### **4.02B.050 Enforcement – Criminal History Record Information**

- (a) The Tribal Gaming Commission and Tribal Gaming Agency are designated as law enforcement agencies for such purposes as set forth in Chapters 4.02, 4.02A and

4.02B STC.

- (b) Nothing herein shall limit the ability of the Tribal Gaming Commission and Tribal Gaming Agency from pursuing Administrative Charges, which are governed by the procedures and penalties set forth in Chapters 4.02 and/or 4.02A STC and any regulations promulgated and issued thereunder.
- (c) The Tribal Gaming Commission and Tribal Gaming Agency shall have the power to investigate violations of Chapter 4.02B STC and refer such violations for enforcement action to the Skokomish Public Safety Department.
- (d) The Skokomish Public Safety Department shall have the power to investigate violations of and to enforce the provisions of Chapter 4.02B, and to obtain information from and provide information to all other law enforcement agencies, the Tribal Gaming Commission, Tribal Gaming Agency, and Washington state gambling commission.
- (e) Criminal history record information that includes nonconviction data may be disseminated by any Skokomish criminal justice agency to the Tribal Gaming Commission, Tribal Gaming Agency, and Washington state gambling commission for any purpose associated with the investigation for suitability for involvement in gambling activities authorized under Chapters 4.02, 4.02A and 4.02B STC.
- (f) Nothing herein shall limit the powers granted under Chapters 4.02, 4.02A, or 4.02B STC.

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)

**4.02B.060 Gambling devices, real and personal property – Seizure and forfeiture**

- (a) To the extent not authorized by the laws of the Skokomish Indian Tribe including Chapters 4.02 or 4.02A STC, the following are subject to seizure and forfeiture and no property right exists in them:
  - (1) All illegal gambling devices as defined by Chapters 4.02 or 4.02A STC or federal law;
  - (2) All furnishings, fixtures, equipment, and stock, including without limitation furnishings and fixtures adaptable to nongambling uses and equipment and stock for printing, recording, computing, transporting, or safekeeping, used in connection with professional gambling or maintaining an illegal gambling premises;
  - (3) All conveyances, including aircraft, vehicles, or vessels, that are used, or intended for use, in any manner to facilitate the sale, delivery, receipt, or operation of any illegal gambling device, or the promotion or operation of a professional gambling activity, except that:

(A) A conveyance used by any person as a common carrier in the transaction of

business as a common carrier is not subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of Chapters 4.02 or 4.02A or 4.02B STC;

- (B) A conveyance is not subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent;
  - (C) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and
  - (D) If the owner of a conveyance has been arrested under Chapter 4.02B STC the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure in accordance with the procedures governing civil forfeitures set forth in the codes and ordinances of the Skokomish Indian Tribe now in effect or as may be amended in the future;
- (4) All books, records, and research products and materials, including formulas, microfilm, tapes, and electronic data that are used, or intended for use, in violation of Chapters 4.02 or 4.02A or 4.02B STC;
  - (5) All moneys, negotiable instruments, securities, or other tangible or intangible property of value at stake or displayed in or in connection with professional gambling activity or furnished or intended to be furnished by any person to facilitate the promotion or operation of a professional gambling activity;
  - (6) All tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to professional gambling activity and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter. A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the time the security interest was created, the secured party neither had knowledge of nor consented to the act or omission. Personal property may not be forfeited under this subsection, to the extent of the interest of an owner, by reason of any act or omission that that owner establishes was committed or omitted without the owner's knowledge or consent; and
  - (7) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements that:
    - (A) Have been used with the knowledge of the owner for the manufacturing, processing, delivery, importing, or exporting of any illegal gambling equipment, or operation of a professional gambling activity in violation of Chapters 4.02, 4.02A, or 4.02B STC; or

- (B) Have been acquired in whole or in part with proceeds traceable to a professional gambling activity.

Real property forfeited that is encumbered by a bona fide security interest remains subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of nor consented to the act or omission. Property may not be forfeited under this subsection, to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent. Real property held in restricted status or trust may not be forfeited.

- (b) The Skokomish Public Safety Department shall comply with the procedures governing civil forfeitures set forth in the codes and ordinances of the Skokomish Indian Tribe now in effect or as may be amended in the future.
- (c) Nothing within this Section shall apply to the Tribe or its enterprises while operating in accordance with the laws of the Skokomish Indian Tribe including Chapters 4.02 or 4.02A STC.

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)  
Amended by Resolution No. 2021-014 (Effective February 24, 2021)

#### **4.02B.070 Slot machines, antique – Defenses concerning – Presumption created**

- (a) For purposes of a prosecution under STC 4.02B.020 or a seizure, confiscation, or destruction order under STC 4.02B.060, it shall be a defense that the gambling device involved is an antique slot machine and that the antique slot machine was not operated for gambling purposes while in the owner's or defendant's possession.
- (b) Operation of an antique slot machine shall be only by free play or with coins provided at no cost by the owner. No slot machine, having been seized under this chapter, may be altered, destroyed, or disposed of without affording the owner thereof an opportunity to present a defense under this section. If the defense is applicable, the antique slot machine shall be returned to the owner or defendant, as the court may direct.

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)

#### **4.02B.080 Firearm Prohibition in Gaming Facilities**

- (a) It is a civil infraction for any unauthorized person to possess a firearm in any gaming facility under the jurisdiction of the Skokomish Indian Tribe. The maximum fine to be imposed per violation is five hundred dollars (\$500) per violation.
- (b) A person is deemed authorized if:
  - (1) The person holds a commission or similar license to serve as a law enforcement officer which is issued by any: federal agency; federally recognized tribe located

in the State of Washington; Washington State agency; or local government agency located in the State of Washington; or

- (2) The person holds a commission or similar license issued by the Washington State Gambling Commission or Agency and that commission or similar license expressly authorizes the possession of a firearm within Skokomish's gaming facilities; or
  - (3) The person is an employee of the Tribal Gaming Agency or the Skokomish Indian Tribal Enterprise, Incorporated and holds an annual firearms license issued by the Skokomish Chief of Police expressly authorizing the possession of a firearm within any gaming facility under the jurisdiction of the Skokomish Indian Tribe; or
  - (4) The person is an armed private security guard, duly licensed and regulated by the State of Washington, engaged by a financial institution to securely transfer Cash or other monies consistent with the requirements of the Compact and Appendix A.
- (c) Unless not already covered pursuant to federal law (e.g. Indian Self-Determination and Education Assistance Act, Federal Tort Claims Act, and any other federal laws), the Skokomish Indian Tribe shall obtain and maintain adequate liability insurance coverage for Skokomish Law Enforcement's conduct related to the use of a firearm within any gaming facility under the jurisdiction of the Skokomish Indian Tribe with minimum liability limits being set on an annual basis by Skokomish Tribal Council.
- (d) Upon request of either the Tribal Gaming Agency or Skokomish Indian Tribal Enterprise, Incorporated, the Skokomish Chief of Police may issue an annual firearms license, which authorizes the possession of a firearm within Skokomish's gaming facilities, to an employee of the Tribal Gaming Agency or the Skokomish Indian Tribal Enterprise, Incorporated, subject to meeting the following eligibility requirements:
- (1) Before an employee of the Tribal Gaming Agency may obtain an annual firearms license, the Skokomish Indian Tribe must obtain and maintain adequate liability insurance coverage for its conduct related to the use of a firearm with minimum liability limits of Five Million Dollars (\$5,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the aggregate;
  - (2) Before an employee of the Skokomish Indian Tribal Enterprise, Incorporated may obtain an annual firearms license, the Enterprise must obtain and maintain adequate liability insurance coverage for its conduct related to the use of a firearm with minimum liability limits of Five Million Dollars (\$5,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the aggregate;
  - (3) The employee must pass a background investigation conducted by the Skokomish Chief of Police and not have any past arrests or past convictions or pending charges that the Skokomish Chief of Police deems disqualifying; and the

following are mandatory disqualifiers, which may not be waived:

- (A) A Felony conviction;
  - (B) A misdemeanor conviction which carries a prohibition on the possession of a firearm;
  - (C) Any civil or criminal judgment, order, or decision that prohibits the possession of a firearm;
  - (D) A history of substance abuse or mental illness or suicide attempts which create a risk to public safety;
  - (E) A history demonstrating a disregard for public safety laws;
- (4) The background investigation may be waived by the Chief of Police if the employee holds a valid concealed weapons permit issued pursuant to the laws of the State of Washington;
  - (5) The employee must complete a firearms safety training course approved by the Skokomish Chief of Police and continue such training on a schedule established by the Skokomish Chief of Police;
  - (6) The employee must satisfy such other requirements as the Skokomish Chief of Police deems necessary and proper for public safety;
  - (7) At any time, the Skokomish Chief of Police may revoke an annual firearms license upon a finding of good cause by the Skokomish Chief of Police; and
  - (8) The denial or revocation of an annual firearms license is appealable to the Skokomish Tribal Council.

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)  
Amended by Resolution No. 2021-014 (Effective February 24, 2021)

#### **4.02B.090 Limited Consent to Application of State Law for Gaming and Related Crimes**

For the purposes of 18 U.S.C. § 1166(d), for enforcing the provisions of the Compact with respect to licensing and criminal conduct, for protection of the public health and safety and to the extent not inconsistent with the other provisions of the Compact; the Skokomish Indian Tribe consents to the exercise of concurrent jurisdiction by the State of Washington to the limited extent authorized in the Compact and this limited consent applies only to State laws expressly incorporated by reference within the Compact.

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)

#### **4.02B.100 Criminal Profiteering – Remedies and Procedures**

- (a) Nothing contained within this Section shall constitute a waiver of the Skokomish Indian Tribe's or Skokomish Indian Tribal Enterprise, Incorporated's sovereign immunity to suit or a waiver of any other defense. Any reference to "enterprise" within STC 4.02B.100 does not include any enterprise owned by the Skokomish Indian Tribe or the Skokomish Indian Tribal Enterprise, Incorporated. The Courts of the Skokomish Indian Tribe shall have no authority to issue a judgment or lien against real property held in trust or restricted status.
- (b) The following apply:
- (1) A person who sustains injury to his or her person, business, or property by an act of criminal profiteering that is part of a pattern of criminal profiteering activity, or by an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, or by a violation of STC 4.02B.020(y) (Leading organized crime) or STC 4.02B.020(uu) (Use of proceeds of criminal profiteering—Controlling enterprise or realty—Conspiracy or attempt) may file an action in the Courts of the Skokomish Indian Tribe for the recovery of damages and the costs of the suit, including reasonable investigative and attorney's fees.
  - (2) The Skokomish Tribal Prosecutor may file an action: on behalf of those persons injured or, respectively, on behalf of the Skokomish Indian Tribe if the Tribe or its enterprises have sustained damages, or to prevent, restrain, or remedy a pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, or by a violation of STC 4.02B.020 (y) (Leading organized crime) or STC 4.02B.020 (uu) (Use of proceeds of criminal profiteering—Controlling enterprise or realty—Conspiracy or attempt).
  - (3) An action for damages filed by or on behalf of an injured person or the Skokomish Indian Tribe shall be for the recovery of damages and the costs of the suit, including reasonable investigative and attorney's fees.
  - (4) In an action filed to prevent, restrain, or remedy a pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, or by a violation of STC 4.02B.020(y) (Leading organized crime) or STC 4.02B.020(uu) (Use of proceeds of criminal profiteering—Controlling enterprise or realty—Conspiracy or attempt), the Courts of the Skokomish Indian Tribe, upon proof of the violation, may impose a civil penalty not exceeding five thousand dollars, in addition to awarding the cost of the suit, including reasonable investigative and attorney's fees.
- (c) The Courts of the Skokomish Indian Tribe have jurisdiction to prevent, restrain, and remedy a pattern of criminal profiteering, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, or by a violation of STC 4.02B.020(y) (Leading organized crime) or STC 4.02B.020(uu) (Use of proceeds of criminal profiteering—Controlling enterprise or realty—Conspiracy or attempt) after making provision for the

rights of all innocent persons affected by the violation and after hearing or trial, as appropriate, by issuing appropriate orders.

- (d) Prior to a determination of liability, orders issued under subsection (c) of this section may include, but are not limited to, entering restraining orders or prohibitions or taking such other actions, including the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to damages, forfeiture, or other restraints pursuant to this section as the Court deems proper. The orders may also include attachment, receivership, or injunctive relief in regard to personal or real property. In shaping the reach or scope of receivership, attachment, or injunctive relief, the Court shall provide for the protection of bona fide interests in property, including: trust or restricted status properties; and community property, of persons who were not involved in the violation of this chapter, except to the extent that such interests or property were acquired or used in such a way as to be subject to forfeiture.
- (e) Following a determination of liability, orders may include, but are not limited to:
- (1) Ordering any person to divest himself or herself of any interest, direct or indirect, in any enterprise.
  - (2) Imposing reasonable restrictions on the future activities or investments of any person, including prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect the laws of the Skokomish Indian Tribe, to the extent the Constitution of the Skokomish Indian Tribe permits.
  - (3) Ordering dissolution or reorganization of any enterprise.
  - (4) Ordering the payment of actual damages sustained to those persons injured by a violation of STC 4.02B.020(y) (Leading organized crime) or STC 4.02B.020(uu) (Use of proceeds of criminal profiteering—Controlling enterprise or realty—Conspiracy or attempt), or an offense defined in defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, or an act of criminal profiteering that is part of a pattern of criminal profiteering, and in the Court's discretion, increasing the payment to an amount not exceeding three times the actual damages sustained.
  - (5) Ordering the payment of all costs and expenses of the prosecution and investigation of a pattern of criminal profiteering, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, activity or violation of STC 4.02B.020(y) (Leading organized crime) or STC 4.02B.020(uu) (Use of proceeds of criminal profiteering—Controlling enterprise or realty—Conspiracy or attempt), civil and criminal, incurred by the Skokomish Indian Tribe, including any costs of defense provided at public expense, as appropriate to the Tribe's general fund.
  - (6) Ordering forfeiture first as restitution to any person damaged by an act of criminal profiteering that is part of a pattern of criminal profiteering, or by an offense defined in RCW 9A.40.100, then to the Tribe's general fund, to the extent not already ordered to be paid in other damages, of the following:

- (A) Any property or other interest acquired or maintained in violation of STC 4.02B.020(y) (Leading organized crime) or STC 4.02B.020(uu) (Use of proceeds of criminal profiteering—Controlling enterprise or realty—Conspiracy or attempt) to the extent of the investment of funds, and any appreciation or income attributable to the investment, from a violation of STC 4.02B.020(y) (Leading organized crime) or STC 4.02B.020(uu) (Use of proceeds of criminal profiteering—Controlling enterprise or realty—Conspiracy or attempt).
  - (B) Any property, contractual right, or claim against property used to influence any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of, in violation of STC 4.02B.020(y) (Leading organized crime) or STC 4.02B.020(uu) (Use of proceeds of criminal profiteering—Controlling enterprise or realty—Conspiracy or attempt).
  - (C) All proceeds traceable to or derived from an offense included in the pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, and all moneys, negotiable instruments, securities, and other things of value significantly used or intended to be used significantly to facilitate commission of the offense.
- (7) Ordering payment to the Tribe's general fund of an amount equal to the gain a person has acquired or maintained through an offense included in the definition of criminal profiteering.
- (f) In addition to or in lieu of an action under this section, the Skokomish Tribal Prosecutor may file an action for forfeiture to the Tribe's general fund to the extent not already ordered paid pursuant to this section, of the following:
- (1) Any interest acquired or maintained by a person in violation of STC 4.02B.020(y) (Leading organized crime) or STC 4.02B.020(uu) (Use of proceeds of criminal profiteering—Controlling enterprise or realty—Conspiracy or attempt) to the extent of the investment of funds obtained from a violation of STC 4.02B.020(y) (Leading organized crime) or STC 4.02B.020(uu) (Use of proceeds of criminal profiteering—Controlling enterprise or realty—Conspiracy or attempt) and any appreciation or income attributable to the investment.
  - (2) Any property, contractual right, or claim against property used to influence any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of, in violation of STC 4.02B.020(y) (Leading organized crime) or STC 4.02B.020(uu) (Use of proceeds of criminal profiteering—Controlling enterprise or realty—Conspiracy or attempt).
  - (3) All proceeds traceable to or derived from an offense included in the pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, and all moneys, negotiable instruments, securities, and other things of value significantly used or intended to be used significantly to facilitate the commission of the offense.

- (g) A defendant convicted in any criminal proceeding is precluded in any civil proceeding from denying the essential allegations of the criminal offense proven in the criminal trial in which the defendant was convicted. For the purposes of this subsection, a conviction shall be deemed to have occurred upon a verdict, finding, or plea of guilty, notwithstanding the fact that appellate review of the conviction and sentence has been or may be sought. If a subsequent reversal of the conviction occurs, any judgment that was based upon that conviction may be reopened upon motion of the defendant.
- (h) The initiation of civil proceedings under this section shall be commenced within three years after discovery of the pattern of criminal profiteering activity or after the pattern should reasonably have been discovered or, in the case of an offense that is defined in RCW 9A.40.100, within three years after the final disposition of any criminal charges relating to the offense, whichever is later.
- (i) The Skokomish Tribal Prosecutor may, in a civil action brought pursuant to this section, file with the clerk of the court a certificate stating that the case is of special public importance. A copy of that certificate shall be furnished immediately by the clerk to the presiding chief judge of the court in which the action is pending and, upon receipt of the copy, the judge shall immediately designate a judge to hear and determine the action. The judge so designated shall promptly assign the action for hearing, participate in the hearings and determination, and cause the action to be expedited.
- (j) The standard of proof in actions brought pursuant to this section is the preponderance of the evidence test.
- (k) A person other than the Skokomish Tribal Prosecutor who files an action under this section shall serve notice and one copy of the pleading on the Skokomish Tribal Prosecutor within thirty days after the action is filed with the court. The notice shall identify the action, the person, and the person's attorney. Service of the notice does not limit or otherwise affect the right of the Tribe to maintain an action under this section or intervene in a pending action nor does it authorize the person to name the Tribe or Skokomish Tribal Prosecutor as a party to the action.
- (l) A private civil action under this section does not limit any other civil or criminal action under this chapter or any other provision. Private civil remedies provided under this section are supplemental and not mutually exclusive.
- (m) Upon motion by the defendant, the court may authorize the sale or transfer of assets subject to an order or lien authorized by this chapter for the purpose of paying actual attorney's fees and costs of defense. The motion shall specify the assets for which sale or transfer is sought and shall be accompanied by the defendant's sworn statement that the defendant has no other assets available for such purposes. No order authorizing such sale or transfer may be entered unless the court finds that the assets involved are not subject to possible forfeiture. Prior to disposition of the motion, the court shall notify the Tribe of the assets sought to be sold or transferred and shall hear argument on the issue of whether the assets are subject to forfeiture. Such a motion may be made from time to time and shall be heard by the court on an expedited basis.

(n) Either party has the right to a jury trial for action brought under STC 4.02B.100.

(o) The Courts of the Skokomish Indian Tribe may issue a criminal profiteering lien and notice; however, no lien shall be granted against trust or restricted status property.

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)  
Amended by Resolution No. 2021-014 (Effective February 24, 2021)

## **ENACTMENT**

### **4.02B.110 Repeal**

To the extent that they are inconsistent with this Ordinance, all prior ordinances are hereby repealed.

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)  
Amended by Resolution No. 2021-014 (Effective February 24, 2021)

### **4.02B.120 Effective Date**

This Ordinance shall take effect immediately upon approval by the National Indian Gaming Commission Chair of the Revised Skokomish Gaming Ordinance, Chapter 4.02 STC and any subsequent amendments hereto.

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)  
Amended by Resolution No. 2021-014 (Effective February 24, 2021)

### **4.02B.130 Future Amendment**

This Ordinance may be amended in the future by the Skokomish Tribal Council, consistent with the powers set forth in the Constitution of the Skokomish Indian Tribe, without approval by the National Indian Gaming Commission.

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)

## **LEGISLATIVE HISTORY**

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)

Amended by Resolution No. 2021-014 (Effective February 24, 2021)