

SKOKOMISH SOLID WASTE ORDINANCE

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GENERAL PROVISIONS

6.07.010 Title

This Chapter shall be known as the Skokomish Solid Waste Ordinance.

Adopted by Resolution No. 2023-027 (March 8, 2023)

6.07.020 Purpose

It is the intent and purpose of the Skokomish Tribal Council in enacting this Chapter:

- (a) To protect and preserve the physical environment of the Skokomish Indian Reservation as the permanent homeland of the Skokomish Indian Tribe;
- (b) To protect from the direct negative effect pollution has on the political integrity and sovereignty of the Tribe;
- (c) To promote the health, safety, welfare, and economic well-being of the Skokomish Indian Tribe, its people, and all residents of the Skokomish Indian Reservation; and
- (d) To prevent the damaging effects of pollution and, where pollution has already occurred, to provide for abatement and clean-up.

Adopted by Resolution No. 2023-027 (March 8, 2023)

6.07.030 Jurisdiction

- (a) This Chapter applies to all persons and conduct on all land, water and air within the exterior boundaries of the Skokomish Indian Reservation and any extensions thereof, and all Skokomish Tribal and allotted Indian lands and waters outside the exterior boundaries of the Reservation, as well as those lands fulfilling the definition of "Indian Country" in 18 United States Code § 1151.
- (b) This Chapter also applies to persons and conduct outside the above-described jurisdictional boundaries when pollution enters the Tribe's jurisdiction.

Adopted by Resolution No. 2023-027 (March 8, 2023)

6.07.040 Definitions

For purposes of this Chapter, unless otherwise required by the context, the following words and phrases shall have the designated meanings:

- (b) "Approved site or facility" means a waste disposal site for which Tribal permission has been obtained.
- (c) "Code Enforcement Officer" means a person designed by the Skokomish Tribe to enforce the provisions of this ordinance.
- (c) "Commercial waste" means waste generated by a non-industrial business, such as a retail store, business or governmental office, or other non-manufacturing facility.
- (f) "Dumping" means disposing of wastes in an unapproved site or in a manner that is not protective of the environment.

- (g) "Hazardous Waste" includes but is not limited to any products including household products that contain paints, oils, toxic ingredients, pesticides, corrosive materials, poisons, radioactive material, explosive material, and the like.
- (h) "Industrial waste" is waste generated by an industry, such as a manufacturing facility, raw materials processing facility (gravel, timber, minerals, etc.), or similar enterprise.
- (i) "Junk" means solid waste comprised primarily of large bulky items not easily transported in garbage bins, including: non-functioning vehicles, machinery, and equipment; appliances; large objects of metal, wood or plastic; rotten building materials; uninhabitable mobile homes, and the like.
- (j) "Landfill" is a site for disposal of solid waste on top of or into a depression or excavation in the land.
- (k) "Littering" is disposing of small quantities (less than 4 cubic feet) of solid waste in an unapproved site or in a manner that does not protect the environment.
- (o) "Occupant" is the person who occupies and/or has the use of a parcel of real property and any buildings and appurtenances thereon.
- (p) "Owner" is the actual owner of a parcel of real property and any buildings and appurtenances thereon, or the agent of the owner in charge of said property.
- (q) "Person" means a natural person, a corporation, institution or other entity.
- (r) "Pollution" means the discharge or disposal of any waste, rubbish, garbage, junk, trash, sewage, or other harmful or unsightly substance into water or air or onto any lands. Includes possession or use of a pesticide in violation of the provisions of this Ordinance.
- (s) "Recreation Area" means an area used by the Tribal Membership and/or the general public for recreation, including areas around lakes, streams and rivers, and campgrounds.
- (t) "Reservation" means all lands and waters within the exterior boundaries of the Skokomish Indian Reservation, as now or later proclaimed.
- (u) "Residential Waste" means waste generated by residential household, normally consisting primarily of kitchen waste, discarded retail packaging, diapers, used paper products and the like.
- (v) "Septic Waste" means human waste, primarily collected in septic tanks and sewage facilities.
- (w) "Solid Waste" means all garbage, refuse, trash, rubbish, yard waste, dead animals and animal wastes, construction and demolition materials, and solid materials

generated from residential, commercial or industrial activities. Includes combustible and non-combustible refuse, paper, wood, metal, glass, cloth, ashes, lumber and concrete.

- (x) "Tribal Council" refers to the governing body of the Skokomish Indian Tribe as defined in the Skokomish Tribal Constitution.
- (y) "Tribal Court" means the Skokomish Tribal Court as established by the laws of this Tribe or such body as may now or hereafter be authorized by the laws of this Tribe to exercise the powers and functions of a court of law.

Adopted by Resolution No. 2023-027 (March 8, 2023)

6.07.050 Severability

If any provisions of this ordinance or the application thereof to any person or set of facts is held invalid, the invalidity shall not affect other provisions or applications of this ordinance which can be given effect without regard to the invalid provision or application, and to this end, the provisions of this Chapter are severable.

Adopted by Resolution No. 2023-027 (March 8, 2023)

SOLID WASTE DISPOSAL

6.07.100 Unlawful Dumping Prohibited

- (a) Waste shall be disposed of only in an approved site or facility. Disposal of waste in any unauthorized manner shall be considered unlawful dumping.
- (b) No person shall cause or allow unlawful dumping within the Skokomish Tribe's jurisdiction, or outside Tribal jurisdiction boundaries in a manner which allows the unlawful dumping to affect the health, safety, welfare, or economic well-being within the Tribe's jurisdiction.

Adopted by Resolution No. 2023-027 (March 8, 2023)

6.07.110 Tribally Provided Waste Receptacles

From time to time, the Tribe may authorize and maintain a community trash receptacle. This is to be used by tribal members and all waste must be placed in the dumpster, not in the area surrounding the dumpster, to prevent contamination and pests. Dumping outside of the trash receptacle shall be considered unlawful dumping.

Adopted by Resolution No. 2023-027 (March 8, 2023)

6.07.120 Landfills Prohibited within Reservation without Approval

No landfill may exist or be operated on the Reservation without the express written approval of the Skokomish Indian Tribe, and such approval may be granted only after a permit has been

granted by the Tribe's Department of Natural Resources under the Skokomish Environmental Protection Act and an opportunity for public comment. Before a permit for a landfill can be granted, the Department of Natural Resources must promulgate regulations for the safe operation of the landfill.

Adopted by Resolution No. 2023-027 (March 8, 2023)

6.07.130 Garbage Collection and Disposal

- (a) Property owners are responsible for the proper collection and disposal of waste to ensure that unlawful dumping does not occur.
- (b) Waste must be collected at sufficiently frequent intervals to prevent nuisances.
- (c) Collection and disposal of wastes shall be by methods that do not create: fire hazards; breeding places for rodents, insects or vermin; endangerment to the safety and welfare of any persons; nuisances or inconveniences to adjoining property interests.
- (d) The accumulation on private or allotted property of greater than 5 cubic yards of waste for a time exceeding 30 days shall be considered unlawful dumping.

Adopted by Resolution No. 2023-027 (March 8, 2023)

JUNK DISPOSAL

6.07.200 Junk Disposal Prohibited

- (a) Dumping, collecting, and accumulating junk on the Reservation is prohibited, unless specific written authorization has been granted by the Tribe for junk disposal under controlled conditions to prevent adverse environmental and health impacts.
- (b) Junk vehicles, machines, equipment, and appliances are specifically and strictly prohibited on property owned by the Tribe.
- (c) Junk vehicles, machines, equipment, and appliances are prohibited on property not owned by the Tribe when the junk:
 - (1) constitutes a nuisance;
 - (2) endangers the health, safety and welfare of the public; or,
 - (3) pollutes or has the potential to pollute the water, air or land of the Reservation.
- (d) The accumulation of more than 5 junk cars per single-family household for more than 12 months shall be considered unlawful dumping, unlawful junk disposal, and a nuisance per se.

- (e) This Section is not a defense against stricter regulations imposed by the Skokomish Housing Authority or Department of Natural Resources regarding junk cars.

Adopted by Resolution No. 2023-027 (March 8, 2023)

6.07.210 Abandoned Vehicles

- (a) The Tribe may require the title owner of record to remove any vehicle that reasonably appears to be abandoned within the Tribe's jurisdiction. The title owner must remove the vehicle within 15 days after service of the Tribe's notice to remove, and removal must be to a lawful location where the vehicle will not violate prohibitions on junk or nuisances.
- (b) For the purposes of this section, vehicle shall mean: automobile, trailer, motorcycle, boat, recreational vehicle, tractor or any similar property.
- (c) Notice shall be posted on the vehicle by Skokomish Department of Public Safety or any person the Director the Skokomish Department of Natural Resources may designate, and after 15 days of such posting, the Tribe may take possession of the vehicle and dispose of it under the current Tribal policies and practices.

Adopted by Resolution No. 2023-027 (March 8, 2023)

LITTERING

6.07.300 Littering Prohibited

- (a) All littering on the Reservation is unlawful and may be controlled through both the enforcement mechanisms in this Chapter and under the criminal provisions of the Skokomish Tribal Code Sections 7.02.120(i) and 9.05.170.
- (b) All littering not covered by the criminal provisions of the Skokomish Tribal Code are civil infractions.
- (b) In Areas of Cultural Significance, as designated by the Tribe, penalties for littering shall be treble the penalties for littering on the Reservation, generally.
- (c) In Recreation Areas, as designated by the Tribe, penalties for littering shall be double the penalties for littering on the Reservation, generally.

Adopted by Resolution No. 2023-027 (March 8, 2023)

6.07.310 Pollution Prohibited

Except as otherwise provided, no person shall cause any pollution within the exterior boundaries of the Skokomish Indian Reservation, or outside of the Reservation in a manner which allows pollution to come onto the Reservation.

Adopted by Resolution No. 2023-027 (March 8, 2023)

6.07.320 Waste Oils and Fluids

Disposal of waste motor oils and fluids onto the ground, into water, or into the air (by evaporation or burning, except in EPA approved burners) is strictly forbidden without express written authorization of the Tribal Council, acting upon the advice of the Department of Natural Resources Department, and pursuant a valid SKEPA permit issued by the Skokomish Department of Natural Resources.

Adopted by Resolution No. 2023-027 (March 8, 2023)

6.07.330 Application of Oil on Roadways

Application of oil as a dust-control agent on roads within the Reservation is strictly forbidden without express written authorization of the Tribal Council, acting upon the advice of the Tribal Department of Natural Resources, and pursuant a valid SKEPA permit issued by the Skokomish Department of Natural Resources.

Adopted by Resolution No. 2023-027 (March 8, 2023)

WASTE HAULING

6.07.400 Waste Hauling Regulations

Hauling of any wastes through, across, or over the Skokomish Indian Reservation is unlawful unless:

- (a) In small quantities (less than 13 gallons volume) of litter and residential wastes are transported in private vehicles for proper later disposal; or
- (b) Residential, commercial, industrial, construction, demolition and septic waste loads which are covered and contained adequately to prevent any waste from escaping the vehicle in route to the disposal site.

Adopted by Resolution No. 2023-027 (March 8, 2023)

6.07.410 Placarding Required

- (a) Any vehicle transporting any quantity of toxic, hazardous, radioactive, flammable or combustible waste through, across, and over the Skokomish Indian Reservation must be placarded in compliance with U.S Department of Transportation regulations.
- (b) The only exception to this requirement is the transporting, in private vehicles, of small volumes (less than 2 gallons) of household hazardous waste.

Adopted by Resolution No. 2023-027 (March 8, 2023)

ENFORCEMENT

6.07.500 Enforcement Authority

Skokomish Code Enforcement Officers, with the assistance of the Skokomish Police Department and the Skokomish Department of Natural Resources and any other Department of Tribal Government, shall have authority to enforce this ordinance.

Adopted by Resolution No. 2023-027 (March 8, 2023)

6.07.510 Evidentiary Presumption

When solid waste is dumped or deposited in violation of this act, in the event there is no other evidence available, if there are two (2) or more items in the waste identifying the same person as the owner or recipient of that item, there shall be a refutable presumption that such person is responsible for the unlawful dumping of the solid waste.

Adopted by Resolution No. 2023-027 (March 8, 2023)

6.07.520 Enforcement Actions

If the Code Enforcement Officer determines that a violation of this act has occurred, the Code Enforcement Officer may:

- (a) engage the violator through a notice of education or other non-punitive method; or
- (b) take any of the following civil actions:
 - (1) Issue a warning explaining what violation(s) of the act took place;
 - (2) Issue an order requiring compliance with the act;
 - (3) Issue an order requiring corrective action, which may include clean up or abatement;
 - (4) Issue a fine not to exceed [\$100] per day per violation;
 - (5) Withhold a deposit previously paid to the Tribe by the violator;
 - (6) Withhold in part or in whole a per capita payment to the violator;
 - (7) Terminate any tribal contract related to the violation;
 - (8) Initiate an action against the violator in Tribal Court, state court, or federal court; and/or
 - (9) Pursue any other lawful action against the violator in order to mitigate the environmental harm caused by the violation(s).

Adopted by Resolution No. 2023-027 (March 8, 2023)

6.07.530 Guidelines for Assessing Penalties

The Code Enforcement Officer and Tribal Court shall take the following factors into consideration when determining the appropriate civil penalty for a violation of this act:

- (a) The size of the business or financial resources of the person(s) responsible for the violation;
- (b) The environmental harm caused by the violation;
- (c) The economic impact of the penalty on the business or person(s);
- (d) Whether the Tribe has previously found the violator to have committed a violation of this act;
- (e) The actual cost of enforcing this act;
- (f) The actual cost of repairing the damage to the Tribe and to the environmental resources of the Tribe; and/or
- (g) Whether the violator has attempted to repair the damage caused by the violation(s).

Adopted by Resolution No. 2023-027 (March 8, 2023)

6.07.540 Notice of Violation—Rescinded

The Code Enforcement Officer may rescind a notice of violation if the violator:

- (a) demonstrates to the satisfaction of the Tribe that no violation(s) occurred; or
- (b) demonstrates that the violator has made a good faith effort to abate the harm caused by the violation(s) and the Tribe, in its discretion, finds the violator's abatement efforts satisfactory.

Adopted by Resolution No. 2023-027 (March 8, 2023)

6.07.550 Judicial Review

Any person subject to a civil penalty under this Ordinance may seek review of such penalty assessment in Tribal Court by filing a petition for review within 30 days following the date that the penalty becomes final. After a filing, the Code Enforcement Officer shall have 30 days to file in Tribal Court a copy of the record on which the penalty was based. The court shall not set aside or remand an order or assessment under this section unless the record, taken as a whole, does not substantially support the finding of a violation or unless the order or penalty

assessment constitutes an abuse of discretion. In any such proceedings, the Code Enforcement Officer may seek to recover civil penalties ordered or assessed under this section.