

## **CHAPTER 31 - BUSINESS LICENSING CODE**

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### **Section 31-1 Declaration and Purpose**

#### **31-1.01 Declaration.**

The Spokane Tribal Council finds that, to safeguard and promote the peace, safety, morals and general welfare of the Tribe, it is necessary to regulate persons engaged in trade and business on the Spokane Indian Reservation.

Legislative History-Readopted 8/01/06, Resolu. 2006-524; Enacted 4/7/00, Resolu. 2000-179; Amended 9/27/2006, Resolu. 2006-593.

**31-1.02 Purpose.** This Business Licensing Code, is enacted to bring businesses into compliance with Tribal law and to establish a fund to defray administrative and enforcement costs and to compensate individuals and the Tribe for damages caused by business non-compliance.

Legislative History-Readopted 8/01/06, Resolu. 2006-524; Enacted 4/7/00, Resolu. 2000-179; Amended 9/27/2006, Resolu. 2006-593.

#### **31-1.03 Authority to Grant the Privilege of Engaging in Business Activity.**

The Tribe shall have the sole and exclusive authority to grant, deny, extend, or withdraw the privilege of engaging in business activity within the Reservation.

Legislative History- Enacted 9/27/2006, Resolu. 2006-593.

#### **31-1.04 Business License Required.**

It shall be unlawful to engage in business activity on the Spokane Indian Reservation without a business license issued pursuant to this Code.

Legislative History- Enacted 9/27/2006, Resolu. 2006-593.

### **Section 31-2 Definitions**

**31-2.01 Definitions.** For the purposes of this Code, certain terms are defined in this section.

- (a) The word "shall" is always mandatory and not merely advisory.
- (b) "Agent" means the individual or individuals designated by a license to receive and accept service of process.
- (c) "Aggrieved party" means a person or entity entitled to resort to a remedy.
- (d) "Applicant" means any person who submits an application to the Director for a business license and who has not yet received such license.
- (e) "Business" or "business activity" means any regular or temporary business activity engaged in by any person for the purpose of conducting a trade, profession or commercial activity involving the sale of any property or service.
- (f) "Code" means the Spokane Business License Code as enacted and amended by the Spokane Tribal Business Council.

- (g) "Director" means the Business License Director appointed by the Spokane Tribal Business Council to administer and enforce this Code; or the Directors authorized representative, as evidenced by a written authorization from the Director.
- (h) "Employee" means a person who works in the service of another person under an express or implied contract of hire, under which the employer has the right to control the details of work performance.
- (i) "Goods" means all things, including specially manufactured goods that are moveable at the time of identification in a contract for sale.
- (j) "Hearing" means a proceeding conducted on the record that affords the licensee or applicant an opportunity to cross examine witnesses and to present evidence.
- (k) "Hereof" is a generalized referent used to direct the reader's attention to another Section or subsection of this code.
- (l) "Licensee" means any person to whom the Director has issued a business license.
- (m) "Notice" means actual notice by hand delivery or by certified mail:
  - (1) Notice provided by certified mail shall be deemed delivered 3 business days after deposit in the US mail.
- (n) "Person" means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co partnership, joint venture, public utility, club, company, business trust, municipal corporation, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise, and includes any instrumentality thereof, but excludes any governmental entity, including a business wholly owned by the Spokane Tribe of Indians.
- (o) "Property" means any existing and identified real or personal property, including any actual or expectancy interest therein, and also shall include any goods.
- (p) "Reservation" means all lands and water areas within the exterior boundaries of the Spokane Indian Reservation and all Spokane Tribal and allotted Indian trust lands outside the exterior boundaries of the Spokane Indian Reservation.
- (q) "Sale" means the transfer, exchange or barter, conditional or otherwise, of the ownership of, title to, or possession of real or personal property for consideration; and shall also include:
  - (1) Leases, conditional sales contracts, leases with the option to purchase, and any other contract under which possession of the property is given to the purchaser but title is retained by the seller as security;
  - (2) The furnishing of food, drink, or meals for compensation, whether or not consumed on the premises; or,
  - (3) Any conditional or unconditional provision of services for consideration.
- (r) "Service of Process" means the delivery of show-cause orders, cease and desist orders or other orders of the Director or Tribal Court as authorized by this Code.
- (s) "Services" means the performance, for consideration, of labor for the benefit of another, but excludes labor performed by an employee for the benefit of the employee's employer.

(t) "Tribal Enterprise" means a business wholly owned by the Spokane Tribe of Indians.  
Legislative History--Amended 09/27/2006, Resolu. 2006-593, Readopted 8/01/06, Resolu. 2006-524; Enacted 4/7/00, Resolu. 2000-179.

### **Section 31-3 Business License Director**

#### **31-3.01 Establishment of a Director.**

The Spokane Tribal Business Council shall appoint, by Resolution, a Business License Director, who shall be responsible for administering and enforcing this Code.

Legislative History--Enacted 09/27/2006, Resolu. 2006-593.

#### **31-3.02 Powers.**

The Director is authorized to exercise any proper power and authority necessary to perform the duties assigned to the Director by this Code.

- (a) The Director may solicit or utilize the services of the Office of the Spokane Tribal Attorney and Reservation law enforcement, as necessary, to assist the Director in the enforcement of this Code.

Legislative History--Enacted 09/27/2006, Resolu. 2006-593.

### **Section 31-4 Business License**

#### **31-4.01 Applicability.**

This Code shall be applicable to all persons engaged in business activity within the Reservation.

Legislative History: Enacted 4/7/00, Resolu. 2000-179; Amended 09/27/2006, Resolu. 2006-593.

#### **31-4.02 Exemptions.**

The following shall be exempt from the licensing requirements of this Code:

- (a) Governmental entities, including Tribal Enterprises;
- (b) Persons engaged in the "traditional" practice of Indian medicine; and
- (c) Employees of a business.

Legislative History: Enacted 4/7/00, Resolu. 2000-179; Amended: 09/27/2006, Resolu. 2006-593

#### **31-4.03 Application and Issuance of License- Licensing Fee.**

- (a) Applicants for a business license shall submit to the Director a written application, on a form provide by the Director and approved by the Tribal Business Council.
- (b) Persons engaged in business at the time this Code is enacted shall have 45 days from enactment to obtain and submit to the Director an application for a business license.
- (c) All applications shall include:
  - (1) A description of the type of business;
  - (2) The name and residential address (no P.O. Box) of the owner or owners of the business;
  - (3) The trade name, if any, to be used by the business;
  - (4) The location on the Reservation where the business will be conducted; or, in the case of businesses that deliver goods or provide services within the Reservation and do not otherwise regularly engage in business activity within the exterior boundaries of the Reservation, the principle off-Reservation location of the business;
  - (5) With the exception of businesses that deliver goods or provide services within the Reservation and do not otherwise engage in business activity within the Reservation, documentation that the business or owner legally is entitled to be present upon, and to conduct business upon, the lands located within the Reservation;

- (6) A sworn statement that the applicant is in compliance with, and shall comply with, all Tribal laws applicable to the applicant's business;
  - (7) Unless specifically exempted by a Tribal Business Council Resolution, a copy of which shall be attached to the application, a sworn statement that the applicant consents to Tribal Court jurisdiction and service of process
  - (8) The name(s), address(es) and signature(s) of the agent(s) who will accept service of process on behalf of the business.
- (d) A separate application shall be submitted for each branch establishment or separate business location that is located on the Reservation.
  - (e) The Director shall set a reasonable application fee that shall accompany each application and shall advise the Tribal Business Council of the amount of the fee established.
    - (1) From time to time, and upon notice to the Tribal Business Council, the Director may change the amount of the business license fees, as the Director may deem necessary to cover the expenses of administration of this statute.
  - (f) Within 14 days of receiving an application, the Director shall notify the applicant, by regular mail whether license shall be granted or denied.
  - (g) The Director shall issue the business license certificate, for no additional cost, in a form approved by the Tribal Business Council.
  - (h) The licensee shall post the license, at all times and in a conspicuous manner at the business location designated on the license.

Legislative History- Enacted 4/7/00, Resolu. 2000-179. Amended 09/27/2006, Resolu. 2006-593.

#### 31-4.04 Denial of License and Appeal.

- (a) The Director shall not approve or renew a business license if the Director finds that:
  - (1) the applicant has misrepresented material facts contained in the application;
  - (2) the applicant or the business presently is non-compliant with Tribal law;
  - (3) The applicant or the business has no legal authority to be present upon, or to conduct business upon, the land upon which the business activity is to be conducted;
  - (4) Approval or renewal of the business license will threaten the peace, health, safety, morals, or general welfare of the Tribe; or
  - (5) The applicant or the business has incurred delinquent financial obligations, owed to the Tribe or to a Tribal Enterprise, that arise from activities related to the business for which a license, or a license renewal, is sought.
  - (6) The applicant's business license previously was revoked for cause, unless the Director determines the applicant successfully has remedied the cause for the license revocation.
- (b) Notwithstanding the requirements of subsection 31-4.04 (a)(5), the Director may issue a renewal license if the Director, in the Director's sole and unreviewable discretion, approves a payment plan as a condition of the license.
  - (1) If the business or business owner fails to comply with such a repayment plan over the first 90 days following the date the license was reissued, the Director shall revoke the license as set forth in Section 31-5 Violations and Sanctions.

- (c) If the license is denied, the Director shall inform the applicant, in writing of the reasons for the denial, and shall advise the application that the applicant has 15 days from the mailing of the notice to file an appeal with the Spokane Tribal Court.

- (1) A license denial shall be adjudicated by the Tribal Court as a notice of infraction pursuant to Section 31-6 Responses and Appeals.

Legislative History- Enacted 4/7/00; Resolu. 2000-170; Amended 4/25/2006, Resolu. 2006-305; Amended 09/27/2006, Resolu. 2006-593

#### 31-4.05 Duration.

- (a) Annual License. An annual business license or renewal thereof, shall be issued for a period of 1 year, commencing from the date the license is issued.
- (b) Short-Term License. A short-term business license shall be issued for business operating less than a period of 3 months, such period to be specifically set forth on the license.
- (c) Permanent License. Non-profit charitable, religious or educational organizations, or businesses chartered by the Tribe, and such other similar types of businesses as authorized by the Tribal Council, may be issued a permanent business license.
  - (1) An alleged non-profit organization shall be required to confirm such a status by virtue of incorporation papers, Tax ID numbers or other proof satisfactory to the Director.
  - (2) Except for renewal and fee requirements, businesses operating under permanent license shall be subject to all other provisions of this Code.

Legislative History- Enacted 4/7/00, Resolu. 2000-179. Amended 09/27/2006, Resolu. 2006-593

#### 31-4.06 Conditions of License.

- (a) Each licensee shall comply with all applicable Tribal laws, including but not limited to, tax laws, TERO laws, health and sanitation laws, and building codes.
- (b) Each Licensees shall provide for workmen's compensation coverage, or comparable program, for all employees as a condition of their license.
- (c) Each Licensee shall comply with specific conditions of the license as determined by the Director to be rationally related to a legitimate governmental purpose.
- (d) Each licensee shall be under a continuing obligation to ensure that licensee has a legal right to be present upon, and to conduct business upon, the lands upon which the business activity is conducted.

Legislative History- Enacted 4/7/00, Resolu. 2000-179. Amended 09/27/2006, Resolu. 2006-593

#### 31-4-07 Non-Exclusive Temporary Food Truck and Stand Permit

- (a) Any person with a valid business license issued pursuant to Chapter 31 may obtain a temporary permit to sell food and non- alcoholic beverages on the Tribes' land from a vehicle, stand, tent, or similar structure on a temporary basis.
- (b) The non-exclusive temporary permit shall be valid for a ninety (90) day period specified on the permit issued by the Director.
- (c) To obtain a permit the licensee must provide the following gto the Director:
  - (1) Proof of a valid Spokane Tribal Business License for the business sto be temporarily located on Tribal property;
  - (2) A description of the desired location for the licensee's food and beverage vending business;

- (3) The desired start date for the vending permit; and
  - (4) A \$25.00 fee shall be provided to the Director with the above materials.
- (d) The Director shall have the sole discretion of approval of the business's temporary location.
  - (e) The Director shall notify the licensee within seven (7) business days if the permit will be issued or if the request must be changed prior to issuance, or the permit's denial for failing to provide the above materials.
  - (f) If the permit is issued the Director must include the following within the permit:
    - (1) The date of issuance and expiration;
    - (2) The name of the licensee;
    - (3) A description of the approved location; and
    - (4) Any other information the Director deems appropriate.
  - (g) The licensee must keep a copy of the permit at the business's temporary location at all times during the term of use.
  - (h) Conducting a food or beverage vending business on Tribal property without a valid permit is subject to the fines and penalties described in this Chapter and any other applicable Chapters and Sections of the RSLOC.

Legislative History- Enacted 5/25/2017, Resolu. 2017-321

### **Section 31-5 Inspections and Sanctions**

#### 31-5.01 Inspections.

- (a) The Director, upon presentment of appropriate credentials, reasonable may inspect and investigate locations within the Reservation upon which business activities are occurring to determine whether.
- (b) Upon request of the Director, a licensee, a business owner, or an employee of a licensee or business owner shall provide information identifying the licensee or business owner.
- (c) It shall be a violation of this Code for an employee or agent of a licensee or business owner willfully to refuse to identify a business owner or a licensee as required by subsection 31-5.01 (b).

Legislative History-Enacted 09/27/2006, Resolu. 2006-593

#### 31-5.02 Violations and Sanctions

- (a) If the Director determines that failure to comply with any provision of this Code, or with any provision of the Revised Spokane Tribal Law and Order Code, or with any condition of the business license poses a direct and immediate threat to the peace, safety, morals, or general welfare of the residents of the Reservation, or constitutes a willful violation of this Code, the Director shall issue:
  - (1) An order revoking the licensee's business license; and
  - (2) An order commanding the licensee immediately to cease and desist any and all business activity.
- (b) If the Director reasonable determines that a business owner has failed to obtain a business license in accordance with this Code, the Director shall issue a cease and desist order pursuant to this subsection 31-5.02.
- (c) Any employee of a business who is served by the Director with an order revoking the business license and a cease and desist order is deemed to be an agent of the

licensee, and issuance of the order revoking the business license and the cease and desist order to the employee shall be notice to the licensee.

- (1) If the director personally serves upon an employee an order revoking the business license and a cease and desist order, the Director, within 48 hours, shall send a copy of the order revoking the business license and a cease and desist order, by certified mail, to the licensee's registered agent at the address set forth in the business license application.
- (d) The business shall cease and desist operation immediately upon service of the cease and desist order.
  - (1) Within 15 days of the issuance of the order of revocation and the cease and desist order, the licensee may request in writing, an expedited appeal hearing before the Spokane Tribal Court.
    - (A) The hearing shall be held no later than 48 hours, excluding weekends and holidays from the time of submission of the notice of Appeal and Request for Expedited Hearing to the Tribal Court.
    - (B) The filing of a Notice of Appeal and Request for an Expedited Hearing shall not stay the effect of the Cease and Desist Order.
- (e) In addition to, and after having invoked the powers set forth in this subsection 31-5.02, the Director may invoke any powers, including judicial remedies, set forth in this Code, or in the Revised Spokane Law and Order Code.
- (f) Order revoking licenses and cease and desist orders shall be adjudicated as Notices of Infraction pursuant to Section 31-6.

Legislative History: Enacted 4/7/00, Resolu. 2000-179; Amended 09/27/2006, Resolu. 2006-593

### 31-5.03 Infractions.

- (a) Any violation of this Code shall constitute a civil infraction.
- (b) The Director may issue a Notice of Infraction if the Director reasonably believes that a licensee, business owner, or an agent or employee of a licensee or business owner has committed an infraction under this Code.
- (c) The Director shall serve a Notice of Infraction issue under this Section:
  - (1) By personal service upon the licensee's registered agent named in the notice by the Director;
  - (2) By certified mail directed to the licensee's registered agent at the address set forth in the business license application; or
  - (3) By personal service upon any employee of the business who is present when the Director observes the infraction.
- (d) If the Director personally serves a Notice of Infraction upon an employee, the Director, within 4 days, shall send a copy of the notice of infraction, by certified mail, to the licensee's registered agent at the address set forth in the business license application.
- (e) The form of a Notice of Infraction issued under this Code shall include the following:
  - (1) A statement that the Notice represents a determination that the business has committed an infraction named in the notice and that the determination shall be final unless contested as provided in this Code;
  - (2) A statement that the infraction is a noncriminal offense for which imprisonment shall not be imposed as a sanction;

- (3) A statement of the specific violation that necessitated issuance of the infraction;
- (5) A statement of the options provided in this Code for responding to the notice and the procedures necessary to exercise those options.
- (6) A statement that, at any hearing to contest the Notice of infraction, the Director has the burden of proving, by a preponderance of the evidence that the business committed the infraction;
- (7) A statement notifying the licensee that the licensee may subpoena witnesses, including the Director;
- (8) A statement that the person whom the Director has served with the Notice of Infraction shall sign, that the licensee promises to respond to the Notice of Infraction in one of the ways provided in this Code;
- (9) A statement that refusal to sign the infraction, as directed in subsection 31-5.03(e)(8) may cause the license issued to the licensee to be revoked; and
- (10) A statement that a licensee's failure to respond to a Notice of infraction as promised may result in the revocation of the license issued to the business.

- (f) Unless contested in accordance with this Code, the Notice of Infraction shall represent a determination that the infraction was committed.

Legislative History: Enacted 09/27/2006, Resolu. 2006-593

### **31-6 Responses and Appeals**

#### 31-6.01 Response to Notice of Infraction

- (a) A licensee who is issued a Notice of Infraction shall respond to the Director within 20 days of the date of issuance of the Notice of Infraction.
- (b) If the licensee named in the Notice of Infraction doesn't not elect to contest the Notice of Infraction, the licensee shall pay to the Spokane Tribe, by check or money order, the amount of the penalty prescribed for the infraction.
  - (1) If the Director receives a response that does not contest the Notice of Infraction but that includes payment of the appropriate penalty, the Director shall make the appropriate entry in the records and close the matter.
- (c) If the licensee named in the Notice of Infraction elects to contest the Notice of Infraction, the licensee shall respond by filing a Notice of Appeal to the Spokane Tribal Court specifying the grounds for the appeal.
- (d) If any licensee issued a Notice of Infraction fails to respond within 20 days of the issuance of the infraction, the Director shall revoke the license issued for the business.

Legislative History: Enacted 09/27/2006, Resolu. 2006-593

#### 31-6.02 Appeal Procedure

- (a) A hearing held for the purpose of contesting the determination that an infraction has been committed shall be without a jury.
- (b) The Court may consider the Notice of Infraction and any other written report made under oath and submitted by the Director, or the written statement of the Director that was the basis for the issuance of the notice, in lieu of the Director's personal appearance at the hearing.
- (c) The Office of the Spokane Tribal Attorney shall represent the Director.



- (d) The licensee may subpoena witnesses, including the Director, and has the right to present evidence and examine witnesses present in court.
- (e) The burden of proof is upon the Director to establish the commission of the infraction by a preponderance of the evidence.
- (f) After consideration of the evidence and argument, the Court shall determine whether the business committed an infraction.
- (g) Where it is not established that the infraction was committed, the Court shall issue a written order dismissing the Notice.
- (h) Where it is established that the business committed an infraction, the Court shall issue an appropriate order.
  - (1) The final order shall include findings showing that:
    - (A) The Tribal Court has jurisdiction over the subject matter and the parties;
    - (B) The judgment was consistent with the Law and Order Code of the Tribe.
- (i) A decision by the Court on the appeal shall be final and unreviewable.
- (j) After final determination by the Spokane Tribal Court that a business has committed an infraction, a licensee who fails to pay a monetary penalty within 30 days shall be subject to contempt of court and the Court shall revoke the license issued for the business.

Legislative History: Enacted 09/27/2006, Resolu. 2006-593

#### 31-6.03 Infraction-Penalty

- (a) The Director shall assess a monetary penalty of \$500.00 upon a business found to have committed an infraction under this Code.
- (b) The Director shall deposit monetary penalties collected under this Code in the general fund.

Legislative History: Enacted 09/27/2006, Resolu. 2006-593

#### 31-6.04 Removal and Exclusion of Non-Indians.

Pursuant to the provisions of the Revised Spokane Law and Order Code, the Director may seek exclusion of a non-Indian licensee or business owner from the Reservation based on one or more of the following events:

- (a) Revocation of a business license
- (b) Violation of Section 31-5
- (c) Failure to comply with any order of the Tribal Court; or
- (d) Failure to appear for any hearing before the Tribal Court.

Legislative History: Enacted 4/7/00, Resolu. 2000-179; Amended 09/27/2006, Resolu. 2006-593

### **31-7 Other Remedies and Miscellaneous Provisions**

#### 31-7-01 Other Remedies.

- (a) The Director may petition the Tribal Court for other equitable remedies not provided for in this Code that are necessary to enforce its provisions, including but not limited to, declaratory relief, temporary restraining orders, and preliminary and permanent injunctions.

- (b) The Director may also petition state or federal courts for writs of execution to enforce a final order of the Tribal Court.

Legislative History: Enacted 4/7/00, Resolu. 2000-179; Amended 09/27/2006, Resolu. 2006-593

31-7.02 Miscellaneous Provisions.

- (a) The issuance of a business license under this Code shall only constitute notice that the business is operating on the Reservation and shall be of no other force or effect.
- (b) A business license issued under this Code shall not constitute a property interest.
- (c) A business license issued under this Code shall not constitute a Tribal ratification or approval of the business or of products or services offered by the business.

Legislative History: Enacted 09/27/2006, Resolu. 2006-593

31-7.03 Liability.

- (a) The Spokane Tribe of Indians shall not be liable to any person or entity in any way as a result of any license issued under this Code or as a result of the action, or lack thereof, of any business licensed under this Code.
- (b) The enactment of this Code shall not be deemed an express or implied waiver of the sovereign immunity of the Tribe.
- (c) The Spokane Tribe of Indians does not waive its sovereign immunity by issuing business licenses pursuant to this Code.

Legislative History: Enacted 09/27/2006, Resolu. 2006-593

31-7.04 Savings Clause.

In the event that any provision of this Code is found or declared invalid, the remaining provisions of this Code shall be unaffected thereby and shall remain in full force and effect.

Legislative History: Enacted 4/7/00, Resolu. 2000-179; Reenacted 09/27/2006, Resolu. 2006-593