

TITLE 11. COMMERCE

Chapter 11.2

LIQUOR

Sections:

11.2.1	Title.
11.2.2	Findings and Purpose.
11.2.3	Definitions.
11.2.4	Suquamish Liquor Commission.
11.2.5	Establishment and Delegation.
11.2.6	Liquor Enterprise Manager.
11.2.7	Independent Tribal Operator's License.
11.2.8	Operating Without a License.
11.2.9	Prohibitions.
11.2.10	Revenues and Taxation.
11.2.11	Persons Under 21 Years of Age.
11.2.12	Sales to Intoxicated Persons.
11.2.13	Drinking in Public.
11.2.14	Improper Defense.
11.2.15	Civil Citations.
11.2.16	Mitigation Hearing.
11.2.17	Hearing to Contest the Charge.
11.2.18	Failure to Appear for Hearing or Deny Liability.
11.2.19	No Right to Counsel or Jury Trial.
11.2.20	Relation to Other Tribal Laws.
11.2.21	Conformity with State Law.
11.2.22	Sovereign Immunity Preserved.
11.2.23	Tribal Court Jurisdiction.
11.2.24	Severability.

11.2.1. Title. This chapter will be known as the Suquamish Tribal Liquor Code. (Res. 85-080 §1, passed Sep. 24, 1985; amended by Res. 2024-128, passed Jun. 3, 2024)

11.2.2. Findings and Purpose. (a) The introduction, possession, and sale of liquor in Indian Country has been clearly recognized as a matter of special concern to Indian tribes and to the United States. The control of liquor in Indian Country remains exclusively subject to their legislative enactments.

(b) Beginning with the Treaty of Point Elliott, Statue 927, Article 10, to which the Suquamish Indian Tribe was party, the federal government has respected this Tribe's determinations regarding liquor-related transactions and activities on the Port Madison Reservation and within Indian Country. At treaty time, this Tribe desired to exclude "ardent spirits" from its reservation, and federal law currently prohibits the introduction of

liquor into Indian Country (18 USC 1154), leaving to tribes the decision regarding when and to what extent liquor transactions will be permitted (18 USC 1161).

(c) Present-day circumstances make a complete ban of liquor within Indian Country ineffective and unrealistic. At the same time, a need exists for strict tribal regulation and control over the possession and sale of liquor.

(d) The enactment of a tribal code governing liquor sales within Indian Country providing for exclusive purchase and sale through the Liquor Enterprise, as such term is defined below, will increase the tribal government's ability to control liquor distribution and possession and at the same time will provide an important source of revenue for the tribal government's continued operation and delivery of government services.

(e) To provide for increased tribal control over liquor distribution and possession in Indian Country and to provide for urgently needed additional revenue, the Tribal Council adopts this liquor code. (Res. 85-080 §2, passed Sep. 24, 1985; amended by Res. 2024-128, passed Jun. 3, 2024)

11.2.3. Definitions. Unless otherwise required by the context, the following words and phrases have the designated meanings.

(a) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, sugar, or other substance, including all dilutions and mixtures of those substances.

(b) "Indian Country" means the lands of the Suquamish Indian Tribe as defined by 18 U.S.C. § 1151, including the Tribe's Port Madison Reservation and all lands held in trust or restricted fee status by the United States for the Tribe or its tribal members.

(c) "Liquor" or "liquor products" includes the four varieties of liquor defined in this chapter (alcohol, beer, spirits, and wine), all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous, or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine, or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, or other substance which contains more than one percent (1%) of alcohol by weight is conclusively deemed to be intoxicating.

(d) "Liquor Commission" means the Suquamish Liquor Commission.

(e) "Liquor Enterprise" means the Suquamish Tribal Liquor Enterprise.

(f) "Liquor outlet" means a tribally owned or licensed business selling liquor, beer, or wine within Indian Country.

(g) “Operator” means an enrolled member of the Suquamish Tribe employed by or licensed by the Suquamish Tribe to operate a liquor outlet.

(h) “Sale” and “sell” include exchange, barter, and traffic and also the selling or supplying or distribution, by any means whatsoever, of liquor, of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor, or of wine by any person to any person; they also include a sale or selling within the state to a foreign consignee or his or her agent in the state.

(i) “Spirits” means any beverage which contains alcohol obtained by distillation, including wines exceeding seventeen percent (17%) of alcohol by weight.

(j) “Tribal Council” means the Suquamish Tribal Council.

(k) “Tribe” or “tribal” means the Suquamish Indian Tribe.

(l) “Wholesale price” means the established price for which liquor, beer, and wine products are sold to the Suquamish Tribe or any licensed operator by the manufacturer or distributor, exclusive of any discount or other reduction.

(m) “Wines” means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural product containing sugar to which any saccharine substances may have been added before, during, or after fermentation and containing not more than seventeen percent (17%) of alcohol by weight. (Res. 85-080 §3, passed Sep. 24, 1985; amended by Res. 2024-128, passed Jun. 3, 2024)

11.2.4. Suquamish Liquor Commission. This chapter creates a Suquamish Liquor Commission. The members of the Tribal Council will serve as the Liquor Commission. The Liquor Commission is empowered to:

(a) Administer this chapter by exercising general control, management, and supervision of all liquor sales, liquor control prices, places of sale, and sale outlets as well as exercising all powers necessary to accomplish the purpose of this chapter; and

(b) Adopt and enforce rules and regulations in furtherance of this chapter’s purposes and the performance of its administrative functions. (Res. 85-080 §7.1, §7.2, passed Sep. 24, 1985; amended by Res. 2024-128, passed Jun. 3, 2024)

11.2.5. Establishment and Delegation. (a) This chapter establishes the Liquor Enterprise. The Liquor Enterprise is constituted as an agency of the Suquamish Tribal government.

(b) By this chapter, the Tribal Council delegates the sole authority to manage, control, and operate all liquor activity within Indian Country to the Liquor Enterprise, as authorized in this chapter and subject to oversight by the Tribal Council as stated in this

chapter. (Res. 85-080 §7, passed Sep. 24, 1985; amended by Res. 2024-128, passed Jun. 3, 2024)

11.2.6. Liquor Enterprise Manager. The Tribal Council will appoint a Liquor Enterprise Manager, who is empowered to:

- (a) Manage the Liquor Enterprise for the Suquamish Tribe's benefit.
- (b) Purchase, in the Suquamish Tribe's name, liquor products from wholesale distributors and distribute them to such liquor outlets as appropriate.
- (c) Establish, with the Liquor Commission and subject to its approval, such administrative procedures as are necessary to govern the Liquor Enterprise's operation.
- (d) Report and account to the Tribal Council at least twice a year regarding the Liquor Enterprise's operation and financial status. The Tribal Council will establish the dates on which such accounting will take place. The Tribal Council may require more frequent accounting if it considers it necessary. The manager's reports and all written records of the Tribal Council's proceedings in regard to the Liquor Enterprise will be available for inspection by any Suquamish tribal member upon request.
- (e) With Liquor Commission approval, hire and set the salaries of additional personnel, as the Liquor Enterprise Manager determines are necessary to the Liquor Enterprise's successful operation.
- (f) Supervise all Liquor Enterprise employees.
- (g) With Tribal Council approval, purchase and maintain the Liquor Enterprise's real and personal property.
- (h) Upon the Tribal Treasurer's direction, maintain all Liquor Enterprise revenues in a special account. The Liquor Enterprise Manager may withdraw funds from this account for the wholesale purchase of liquor products to be sold according to this chapter, for payment of salaries and business expenses of Liquor Enterprise employees, and for the purchase and maintenance of real and personal property required for the Liquor Enterprise's operation.
- (i) To set the retail price for all liquor products sold according to this chapter in cooperation with the Liquor Commission.
- (j) To obtain and maintain in full force and effect a policy of general liability insurance covering the premises in an amount set by the Tribal Council. The policy must contain the stipulation that the Suquamish Tribe will be given ten (10) days' notice of the proposed cancellation or expiration of such policy and will have available for inspection a complete copy of such policy.

(k) The Liquor Enterprise Manager must be bonded for such additional amount and for such additional purposes as the Tribal Council determines to be appropriate in managing the Liquor Enterprise. (Res. 85-080 §7.3, passed Sep. 24, 1985; amended by Res. 2024-128, passed Jun. 3, 2024)

11.2.7. Independent Tribal Operator's License. (a) A member of the Suquamish Tribe may apply to the Suquamish Liquor Commission for a license to operate a liquor outlet on trust property the applicant owns within Indian Country.

(b) The Suquamish Liquor Commission will recommend to the Suquamish Tribal Council which applicant, if any, will receive a license under this section. The Tribal Council at its sole discretion will determine which, if any, applicant will receive a license. Each license granted will specify what liquor products are authorized to be sold according to a granted license.

(c) The Tribal Council, in determining which applicant, if any, will receive a license under this section, will consider the current number of liquor outlets in operation or contemplated and will not act so as to frustrate the central purposes of this act by allowing the unnecessary proliferation of liquor outlets.

(d) The operator must comply with all parts of this chapter and with all rules and regulations relating to retail sales price, hours of sale, and persons to whom sales are lawfully permitted.

(e) An operator under this section may conduct other business simultaneously with the management of the liquor outlet for the Tribe. The other business may be conducted on the same premises. (Res. 85-080 §11, passed Sep. 24, 1985; amended by Res. 2024-128, passed Jun. 3, 2024)

11.2.8. Operating Without a License. No person may operate a liquor outlet in Indian Country without first having in effect an independent tribal operator's license or as an employee of a liquor outlet established by the Liquor Commission. (Res. 85-080 §13, passed Sep. 24, 1985; amended by Res. 2024-128, passed Jun. 3, 2024)

11.2.9. Prohibitions. Any liquor activity other than by the Suquamish Tribe through the Liquor Enterprise or an operator, is prohibited within Indian Country and is declared an offense under tribal law. Possession of liquor by any person now prohibited by federal law is lawful so long as the possession is in conformity with this chapter. Federal Indian liquor laws will remain applicable to any act or transaction that is not authorized by this chapter, and violators of this chapter are subject to federal prosecution as well as legal action in accordance with tribal law. (Res. 85-080 §5, passed Sep. 24, 1985; amended by Res. 2024-128, passed Jun. 3, 2024)

11.2.10. Revenues and Taxation. (a) This chapter levies on the Liquor Enterprise a tax in the amount of one hundred percent (100%) of all enterprise profits which exceed a percentage of annual net sales to be determined each year by the Tribal Council.

Profits not taxed according to this section will be deposited in a separate development fund, which will be appropriated by the Tribal Council, as it considers advisable, for the following tribal government purposes: operation and development of the Liquor Enterprise, operation and development of other tribal enterprises, and technical assistance for tribal enterprises and revenue generating functions. Taxes will be paid quarterly. For purposes of this section, “profits” is defined as all earnings in excess of the cost of sales, undistributed expenses, and other expenses.

(b) Nothing contained in this chapter is intended to, nor does in any way, limit or restrict the Tribe's ability to impose any tax upon the sale or consumption of alcohol. The Tribe expressly reserves its inherent sovereign right to impose such taxes by appropriate statute to the full extent permitted by Federal law. (Res. 85-080 §12, passed Sep. 24, 1985; amended by Res. 2024-128, passed Jun. 3, 2024)

11.2.11. Persons Under 21 Years of Age. (a) In addition to the criminal penalties under S.T.C. Chapter 7.21, it is a civil violation under this chapter for any person under the age of twenty-one (21) to possess, consume, or otherwise acquire or attempt to acquire any liquor.

(b) No person may sell, give, or furnish any liquor or in any way contribute to or allow any liquor to be sold, given, or furnished to a person who is under the age of twenty-one (21). Any person violating this section is in violation of this chapter, in addition to any penalties provided in S.T.C. Chapter 7.21. (Res. 2024-128, passed Jun. 3, 2024)

11.2.12. Sales to Intoxicated Persons. No person may sell, give, or furnish any liquor or in any way allow any liquor to be sold, given, or furnished to a person who is obviously intoxicated. (Res. 2024-128, passed Jun. 3, 2024)

11.2.13. Drinking in Public. No person may open any container containing an alcoholic beverage or consume any alcoholic beverage on any public roadway, sidewalk, or place within Indian Country unless allowed according to this chapter or tribal regulations adopted according to this chapter. In setting the appropriate penalty, the Suquamish Tribal Court will consider whether the defendant has violated this section in the past and whether the violation resulted in a public disturbance. The consumption of alcoholic beverages allowed in this section will not be construed as authorizing or allowing any individual to commit any activity which is made unlawful by any other part of this code. (Res. 85-080 §12, passed Sep. 24, 1985; amended by Res. 2024-128, passed Jun. 3, 2024)

11.2.14. Improper Defense. It is not a defense, unless made a defense by provision of this code, that an individual alleged to have violated any provision of this code was intoxicated or otherwise under the influence of liquor at the time of the alleged violation. (Res. 2024-128, passed Jun. 3, 2024)

11.2.15. Civil Citations. (a) The Suquamish Police Department has the authority to

issue a civil citation for a civil violation of this code or any regulations adopted under this code when the offense is committed in the officer's presence or when the officer otherwise has probable cause to believe that an offense has been committed. The citation must be on a form approved by the Tribe and must include the following:

(1) The respondent's name;

(2) The incident date, time, and location;

(3) The section of this chapter that has been violated;

(4) The monetary penalty for the offense;

(5) Instructions to the respondent that the respondent may either pay the penalty, request a hearing to explain the circumstances surrounding the violation, or request a hearing to contest the charge; and

(6) Notice to the respondent that the fine must be paid or a hearing requested within seven (7) days of receiving the citation.

(b) Nothing in this section precludes the Tribe from instituting proceedings by filing a civil complaint.

(c) Any person found to have engaged in any activity in violation of any part of this chapter or rule or regulation adopted according to this chapter is subject to a civil fine of not more than five hundred dollars (\$500) for each violation, at the Tribal Court's discretion.

(d) In addition to or instead of civil fines required under subsection (c), the Tribal Court may impose any reasonably appropriate penalty, including without limitation community restitution or other rehabilitative programs. (Res. 2024-128, passed Jun. 3, 2024)

11.2.16. Mitigation Hearing. (a) At the mitigation hearing, the respondent has the burden of proof.

(b) The respondent may present evidence of mitigating circumstances and ask the Court to reduce the monetary penalty. (Res. 2024-128, passed Jun. 3, 2024)

11.2.17. Hearing to Contest the Charge. (a) At a hearing to contest a civil charge, the Tribe has the burden of proving by a preponderance of the evidence that the respondent committed the offense.

(b) If the Tribe does not meet its burden, the case will be dismissed with prejudice.

(c) If the Tribe does meet its burden, the respondent may present evidence of mitigating factors. (Res. 2024-128, passed Jun. 3, 2024)

11.2.18. Failure to Appear for Hearing or Deny Liability. (a) Any person who does not appear for a hearing or who fails to deny liability within seven (7) days of receiving a citation will be determined to have admitted committing the charged offense. The Court will enter a default judgment against the respondent if it finds that:

(1) The notice of infraction was issued;

(2) The respondent was informed of the date and time of the hearing, or the respondent's duty to pay the fine or request a hearing; and

(3) The respondent did not appear at the appointed time and place or did not pay the fine or request a hearing within seven (7) days of receiving a citation.

(b) The Tribe may institute a civil proceeding to collect the fine and up to an additional one hundred fifty dollar (\$150) penalty. (Res. 2024-128, passed Jun. 3, 2024)

11.2.19. No Right to Counsel or Jury Trial. (a) No person is entitled to appointed counsel when the charged offense is a civil infraction.

(b) No person is entitled to a jury trial when the charged offense is a civil infraction. (Res. 2024-128, passed Jun. 3, 2024)

11.2.20. Relation to Other Tribal Laws. All prior ordinances and resolutions of the Suquamish Tribe regulating, authorizing, prohibiting, or in any way dealing with the sale of liquor are by this chapter repealed and of no further force and effect. No tribal business licensing law or other tribal law will be applied in a manner inconsistent with this chapter's provisions. Nothing in this chapter will be interpreted to limit or restrict any criminal penalties imposed by S.T.C. Title 7. (Res. 85-080 §4, passed Sep. 24, 1985; amended by Res. 2024-128, passed Jun. 3, 2024)

11.2.21. Conformity with State Law. Tribally authorized liquor transactions must comply with Washington State liquor law standards to the extent required by 18 USC 1161. (Res. 85-080 §6, passed Sep. 24, 1985; amended by Res. 2024-128, passed Jun. 3, 2024)

11.2.22. Sovereign Immunity Preserved. Nothing in this chapter is intended or will be construed as a waiver of the Suquamish Indian Tribe's sovereign immunity. No Liquor Enterprise manager or employee is authorized to waive or may attempt to waive the Tribe's immunity. (Res. 85-080 §10, passed Sep. 24, 1985; amended by Res. 2024-128, passed Jun. 3, 2024)

11.2.23. Tribal Court Jurisdiction. The Suquamish Tribal Court has exclusive

jurisdiction over all matters described in this chapter. This jurisdiction extends over Indians and non-Indians to the full extent allowed by federal, state, and tribal law. (Res. 2024-128, passed Jun. 3, 2024)

11.2.24. Severability. If any part of this chapter, or the application of this chapter, to any party, person, or entity or to any circumstances, is held invalid for any reason whatsoever, the remainder of the section or chapter is not affected by such holding, and remains in full force and effect as though no part of this chapter had been declared to be invalid. (Res. 2024-128, passed Jun. 3, 2024)