

**CIVIL TRAFFIC ORDINANCE
DISPOSITION OF TRAFFIC INFRACTIONS**

8.63.020	Violations as Traffic infractions - Exceptions
8.63.030	Notice of Traffic Infraction - Issuance
8.63.040	Jurisdiction of Courts
8.63.060	Notice of Traffic Infraction -Determination Final Unless Contested - Form
8.63.070	Response to Notice - Contesting Determination - Hearing - Failure to Respond or Appear
8.63.080	Hearings - Rules of Procedure - Counsel
8.63.090	Hearings - Contesting Determination that Infraction Committed
8.63.100	Hearings - Explanation of Mitigating Circumstances
8.63.110	Monetary Penalties
8.63.120	Order of Court - Civil Nature - Waiver, Reduction, Suspension of Penalty - Community Service
8.63.140	Presumption Regarding Stopped, Standing, or Parked Vehicles.
8.63.151	Costs and Attorney Fees

8.63.020 Violations as Traffic Infractions - Exceptions.

Failure to perform any act required or the performance of any act prohibited by this Ordinance relating to traffic, including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title:

- (a) 8.12.220 relating to alteration or forgery of certificates of ownership and registration;
- (b) 8.20.021 relating to driving without a valid driver's license;
- (c) 8.20.338 relating to the unlawful possession and use of a driver's license;
- (d) 8.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;
- (e) 8.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (f) 8.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;
- (g) 8.61.022 relating to failure to stop and give identification to an officer;
- (h) 8.61.525 relating to negligent driving;
- (i) 8.61.527(d) relating to reckless endangerment of roadway workers;
- (j) 8.61.530 relating to racing of vehicles on highways;

- (k) 8.61.685 relating to leaving children in an unattended vehicle with the motor running;
- (l) 8.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;
- (m) 8.64.048 relating to attempting, aiding, abetting coercing, and committing crimes.

8.63.030 Notice of Traffic Infraction - Issuance

- (a) A law enforcement officer has the authority to issue a notice of traffic infraction:
 - (1) When the infraction is committed in the officer's presence;
 - (2) When the officer is acting upon the request of a law enforcement officer in whose presence the traffic infraction was committed; or
 - (3) If an officer investigating at the scene of a motor vehicle accident has reasonable cause to believe that the driver of a motor vehicle involved in the accident has committed a traffic infraction.
- (b) The Tribal court may issue a notice of traffic infraction upon receipt of a written statement of the officer that there is reasonable cause to believe that an infraction was committed.
- (c) If any motor vehicle without a driver is found parked, standing, or stopped in violation of this title, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a notice of traffic infraction.

8.63.040 Jurisdiction of Courts

All violations of Skokomish Tribal law, ordinance, regulation, or resolution designated as traffic infractions may be heard and determined by the Tribal Court.

8.63.060 Notice of Traffic Infraction - Determination Final Unless Contested - Form

- (a) A notice of traffic infraction represents a determination that an infraction has been committed. The determination will be final unless contested as provided in this chapter.
- (b) The form for the notice of traffic infraction shall include the following:
 - (1) A statement that the notice represents a determination that a traffic infraction has been committed by the person named in the notice and that the determination is final unless contested as provided in this chapter;
 - (2) A statement that a traffic infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;
 - (3) A statement of the specific traffic infraction for which the notice was issued;
 - (4) A statement of the monetary penalty established for the traffic infraction;

(5) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(6) A statement that at any hearing to contest the determination the Tribe has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses including the officer who issued the notice of infraction;

(7) A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction the person will be deemed to have committed the infraction and may not subpoena witnesses;

(8) A statement that the person must respond to the notice as provided in this chapter within fifteen days or the failure to pay will be submitted to a collection agency to be processed as a bad debt until any penalties imposed pursuant to this chapter have been satisfied;

(9) A statement that failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in the failure to pay being submitted to a collection agency to be processed as a bad debt until any penalties imposed pursuant to this chapter have been satisfied;

(10) A statement, which the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter.

8.63.070 Response to Notice - Contesting Determination - Hearing - Failure to Respond or Appear.

(a) Any person who receives a notice of traffic infraction shall respond to the notice as provided in this section within fifteen days of the date of the notice.

(b) If the person determined to have committed the infraction does not contest the determination the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the Tribal Court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order is entered in the court's records.

(c) If the person determined to have committed the infraction wishes to contest the determination the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the Tribal Court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than seven days from the date of the notice, except by agreement.

(d) If the person determined to have committed the infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of infraction requesting a hearing

for that purpose and submitting it, either by mail or in person, to the Tribal Court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing.

(e) If any person issued a notice of traffic infraction:

(1) Fails to respond to the notice of traffic infraction as provided in subsection (b) of this section; or

(2) Fails to appear at a hearing requested pursuant to subsection (c) or (d) of this section;

the court shall enter an appropriate order assessing the monetary penalty prescribed for the traffic infraction and any other penalty authorized by this chapter and shall notify a collection agency to process the failure to pay as a bad debt until any penalties imposed pursuant to this chapter have been satisfied.

8.63.080 Hearings - Rules of Procedure - Counsel

(a) Any person subject to proceedings under this chapter may be represented by counsel at their own expense.

(b) The attorney representing the Tribe may appear in any proceedings under this chapter but need not appear, notwithstanding any ordinance or rule of court to the contrary.

8.63.090 Hearings - Contesting Determination that Infraction Committed

(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 traffic infraction and any other written report made under oath submitted by the officer who issued the notice or whose written statement was the basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the officer, and has the right to present evidence and examine witnesses present in court.

(c) The burden of proof is upon the Tribe to establish the commission of the infraction by a preponderance of the evidence.

(d) After consideration of the evidence and argument, the court shall determine whether the infraction was committed. Where it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the court's records. Where it has been established that the infraction was committed, an appropriate order shall be entered in the court's records.

8.63.100 Hearings - Explanation of Mitigating Circumstances

(a) A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction is an informal proceeding. The person may not

subpoena witnesses. The determination that an infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.

(b) After the court has heard the explanation of the circumstances surrounding the commission of the infraction an appropriate order shall be entered in the court's records.

(c) There may be no appeal from the court's determination or order.

8.63.110 Monetary Penalties

(a) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(b) The Skokomish Tribal Council shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which the Tribal Court may exercise discretion in assessing fines and penalties for traffic infractions. The schedule shall be reviewed every two years to adjust for inflation.

(c) There is a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction.

(d) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment the court shall notify a collection agency of the failure to pay the penalty, and the collection agency shall process the failure to pay as a bad debt.

8.63.120 Order of Court - Civil Nature - Waiver, Reduction, Suspension of Penalty - Community Service

(a) An order entered after the receipt of a response which does not contest the determination, or after it has been established at a hearing that the infraction was committed, or after a hearing for the purpose of explaining mitigating circumstances is civil in nature.

(b) The court may include in the order the imposition of any penalty authorized by the provisions of this chapter for the commission of an infraction. The court may, in its discretion, waive, reduce, or suspend the monetary penalty prescribed for the infraction. At the person's request the court may order performance of a number of hours of community service in lieu of a monetary penalty, at the rate of the then state minimum wage per hour.

8.63.140 Presumption Regarding Stopped, Standing, or Parked Vehicles

(a) In any traffic infraction case involving a violation of this title or any resolution relating to the stopping, standing, or parking of a vehicle, proof that the particular vehicle described in the notice of traffic infraction was stopping, standing, or parking in violation of any provision of this title or an equivalent resolution, together with proof that the person named in the notice of traffic infraction was at the time of the violation the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was

the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred.

(b) The foregoing stated presumption shall apply only when the procedure prescribed in 8.63.030(c) has been followed.

8.63.320 Costs and Attorney Fees

Each party to a traffic infraction case is responsible for costs incurred by that party. No costs or attorney fees may be awarded to either party in a traffic infraction case.