

CHAPTER 6-21 TEMPORARY UNIT OCCUPANCY TAXACT

6-21-1 Short Title

This Chapter shall be known and may be cited as the Colville Tribal Temporary Unit Occupancy Tax Act.

6-21-2 Legislative Findings

The Colville Business Council finds that:

(a) The power to tax is an essential attribute of Tribal sovereignty and a necessary instrument of self-governance and territorial jurisdiction. It derives from the Tribes' general authority, as a sovereign, to regulate economic activity within its jurisdiction, and to defray the costs of providing governmental services by requiring contributions from persons or enterprises engaged in economic activities within its jurisdiction;

(b) Tax revenues are essential to the Tribes' ability to provide services to its members, finance government operations, and provide for the health, safety and welfare of the Tribes and its members and those who work on, live on, and visit the Reservation.

(c) Among the benefits provided by the Tribal government to its members and to non-members residing, visiting or conducting business on the Reservation are the provision of public health services, safety, law and order, environmental protection programs, a Tribal Court system with jurisdiction over civil disputes and the prosecution of criminal action, community centers, the promotion and regulation of Reservation businesses and economic development and the provision of employment opportunities to both members and non-members of the Tribes.

(d) The full costs of these needed and beneficial programs are not covered by the programs themselves and it is necessary for the Tribes to raise additional revenue for the provision of these essential public services;

(e) The entire Reservation community, both Tribal members and non-members, whether visiting, residing, employed, or otherwise doing business on the Reservation, benefits from these tribal governmental services and programs directly. Additionally, because these Tribal services and programs supplement or replace other governments' programs this relieves other governments from the full financial burden of providing these services and programs; and

(f) It is appropriate that a portion of the costs of these essential government services be borne by persons engaged in or benefiting from residential, business or recreational activities on the Reservation, as they benefit from services and programs provided by the Tribes.

6-21-3 Purpose

In the public interest and for the welfare of the Reservation, its residents, visitors, and employees, the Colville Business Council declares its purpose by this Chapter to assess a tax on temporary lodging unit facilities and to impose, collect, and administer taxes on unit occupancy.

6-21-4 Definitions

(a) "Department" means the Colville Tribes Finance Department.

(b) "Engaged in the business of operating a temporary occupancy facility" means operating a temporary occupancy facility within the Colville Reservation or in the Tribes' Indian Country, as defined by 18 U.S.C. § 1151.

(c) “Essential government services” means services such as Tribal administration, public facilities, fire, police, public health, education, job services, environmental and land use, transportation, and economic development.

(d) “Guest” means the person or business entity in whose name the temporary occupancy unit is rented.

(e) “Occupancy” is the use or possession, or the right to the use or possession, of a room, unit, or space within a Temporary Occupancy Facility.

(f) “Reservation” means all territory under the jurisdiction of the Confederated Tribes of the Colville including any and all trust property located on the North Half and the Moses-Columbia Reservation.

(g) “Unit rental charge” means the actual amount charged for the rental of a temporary occupancy unit before applicable taxes.

(h) “Temporary occupancy unit facility” means a motel, hotel, lodge, RV Park, home, or other facility providing temporary occupancy units to a guest.

(i) “Temporary occupancy unit” means:

(1) a room in a motel, hotel, lodge, bed and breakfast inn;

(2) a space in an RV Park or campground; or

(3) all or part of a single family residence or condominium, provided for a rental cost on a daily or weekly basis or otherwise and for less than 30 consecutive days to a Guest.

(j) “Tribal Court” means the Colville Tribal Court.

(k) “Tribe” or “Tribal” means the Confederated Tribes of the Colville Reservation, a federally-recognized Indian Tribe consisting of twelve tribes and bands whose aboriginal territories are in the Northwestern United States and the Canadian provinces of Alberta and British Columbia.

(l) All other words and phrases not otherwise defined in CTC §§ 1-1-350, *et seq.*, have their ordinary and customary meanings.

6-21-5 Temporary Unit Occupancy Tax—Levy

(a) The Tribes will impose taxes, pursuant to the terms of this section, on the rental of temporary occupancy units.

(b) Temporary occupancy unit facilities may not allow any Guest to rent a unit for more than 30 consecutive days and provide occupancy of the unit to another person or persons for the purpose of avoidance of this tax.

(c) The Tribal Temporary Unit Occupancy tax rate will be 5% of the charge for a unit rental.

(d) The tax imposed pursuant to this Chapter will be in addition to any other applicable taxes imposed by the Tribes.

(e) The tax will be applicable to the amount charged for occupancy or use of the unit only, and not to charges for ancillary services.

(f) The Colville Business Council may adjust the tax rate herein by a duly adopted resolution.

6-21-6 Tax Separate from Rental Price

(a) The tax required by this Chapter to be collected by temporary occupancy unit facilities under the jurisdiction of the Tribes shall be stated separately from the rental price and any other applicable taxes in any invoice or other rental instrument. If not stated separately on the invoice or other rental instrument, then the tax must be accounted for separately in the records of the transaction.

(b) For purposes of determining the tax due under this Chapter, it will be conclusively presumed that the rental price quoted in any price list, rental document, or other agreement between the parties does not include the tax imposed by this Chapter, but if the temporary lodging facility advertises the rental price as including this tax or states that it is paying this tax, the advertised price will not be considered the rental price.

6-21-7 Tax Collection and Payment

(a) Taxes must be collected by the temporary occupancy unit facilities subject to the provisions of this Chapter and remitted no later than the 20th day of the month for the previous month's room rentals to the Department.

(b) The operator of the temporary occupancy unit facility must provide to the Department with their taxes collected, a detailed statement showing the amount of tax collected, total rentals attributed to collection of the tax, total number of rentals exempt from this tax pursuant to this Chapter.

(c) The operator of the temporary occupancy unit facility must keep or cause to be kept all records, receipts, invoices, and other pertinent papers relating to the payment of the tax levied under this Chapter in accordance with standard accounting procedures and any additional forms that the Department may require.

(d) Temporary occupancy unit facilities subject to the provisions of this Chapter must maintain accurate written records of room rental charges and room occupancy taxes charged and received.

(1) Records must be made available for inspection by the Department and any third party auditor retained by the Tribes upon demand.

(2) Records must be maintained for no less than three years after the audit is accepted by the appropriate federal oversight agency.

6-21-8 Use and Allocation of the Room Occupancy Tax Revenue

(a) Revenue collected from the temporary lodging occupancy tax shall be deposited in the general fund with allocation to be determined by resolution of the Colville Business Council on an annual basis.

6-21-9 Temporary Unit Occupancy Tax—Audit

The Tribes may retain a third-party independent auditor for the purposes of verifying compliance with this Chapter.

6-21-10 Overpayment Refunds

(a) When the amount of the room tax revenue has been overpaid, paid more than once, or has been erroneously collected or received by the Tribes, the tax will be refunded upon filing a claim with the Department within one year of the date of payment.

(b) The claim must be filed on a form provided by the Department and must contain all required documentation. Additional information supporting the claim may be appended to the form.

(c) The Tribes' Finance Director, at his or her sole discretion, will determine whether an overpayment has occurred and the amount to be refunded to the claimant.

(d) The decision of the Finance Director is final and not appealable to the CBC or to any court.

6-21-11 Enforcement—Penalties

(a) Any operator subject to the provisions of this Chapter who fails to timely remit the temporary occupancy unit tax as required by the Chapter shall be assessed a daily penalty by the Tribes of 10% of the amount of the tax due.

(b) A daily penalty of 20% of the tax due shall be assessed if the operator subject to these provisions subsequently fails again to timely remit the temporary unit tax required by this Chapter.

(c) Such penalty shall be imposed by the Tribes' Finance Director and shall become part of the tax required to be paid.

6-21-12 Sovereign Immunity Preserved

Except as judicial review may be authorized in this Chapter, nothing in this Chapter shall be interpreted as a waiver of the Colville Tribes' inherent sovereign immunity from unconsented lawsuit, or as authorization for a claim for monetary damages against the Tribes.

6-21-13 Severability

If any provision of this Chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances, is not affected.

6-21-14 Effective Date

The Chapter shall be effective upon its adoption as a Chapter of the Colville Tribal Law and Order Code pursuant to the requirements for code adoption.

(Chapter 6-19 Adopted January 10, 2019, Resolution 2019-18)