

establishment having more than one location.

**Section 5.4 Term of License.** Temporary license. All licenses issued by the Tribal Council shall be issued on a calendar year basis and shall be renewed annually; provided, however, that the Tribal Council may issue special licenses for the sale of alcoholic beverages on a temporary basis for premises temporarily occupied by the licensee for a picnic, social gathering or similar occasion at a fee to be established by the Tribal Council by resolution.

**Section 5.5 Transfer of Licenses.** Each license issued or renewed under this Ordinance is separate and distinct and is transferable from the licensee to another person and/or from one premises to another premises only with the approval of the Tribal Council. The Tribal Council shall have the authority to approve, deny or approve with conditions any application for the transfer of any license. In the case of a transfer to a new person, the application for transfer shall contain all of the information required of an original applicant under Section 4.1 of this Ordinance. In the case of a transfer to a new location, the application shall contain an exact description of the location where the alcoholic beverages are proposed to be sold.

#### **Chapter 6. Revocation of Licenses**

**Section 6.1 Revocation of License.** The Tribal Council shall revoke a license upon any of the following grounds:

A. The misrepresentation of a material fact by an applicant in obtaining a license or a renewal thereof.

B. The violation of any condition imposed by the Tribal Council on the issuance, transfer, or renewal of a license.

C. A plea, verdict, or judgment of guilty, or the plea of nolo contendere to any public offense involving moral turpitude under any federal or state law prohibiting or regulating the sale, use, possession, or giving away of alcoholic beverages or intoxicating liquors.

D. The violation of any tribal Ordinance.

E. The failure to take reasonable steps to correct objectionable conditions on the licenses premises or any immediate adjacent area leased, assigned or rented by the licensee constituting a nuisance within a reasonable time after receipt of a notice to make such corrections has been received from the Tribal Council or its authorized representative.

**Section 6.2 Accusations.** The Tribal Council on its own motion, through the adoption of an appropriate resolution

meeting the requirements of this Section, or any person, may initiate revocation proceedings by filing an accusation with the Secretary of the Tribal Council. The accusation shall be in writing and signed by the maker, and shall state facts showing that there are specific grounds under this Ordinance which would authorize the Tribal Council to revoke the license or licenses of the licensee against whom the accusation is made. Upon receipt of any accusation which meets the foregoing requirements, the Secretary shall cause the matter to be set for hearing before the Tribal Council. Thirty days prior to the date set for the hearing, the Secretary shall mail a copy of the accusation along with a notice of the day and time of the hearing before the Tribal Council. The notice shall command the licensee to appear and show cause why the licensee's license should not be revoked. The notice shall state that the licensee has the right to file a written response to the accusation, verified under oath and signed by the licensee ten days prior to the hearing date.

**Section 6.3 Hearing.** Any hearing held on any accusation shall be held before a quorum of the Tribal Council under such rules of procedure as it may adopt. Both the licensee and the person filing the accusation, including the Tribe, shall have the right to present witnesses to testify and to present written documents in support of their positions to the Tribal Council. The Tribal Council shall render its decision within 60 days after the date of the hearing. The decision of the Tribal Council shall be final and non-appealable.

#### **Chapter 7. Enforcement**

**Section 7.1 General Penalties.** Any person adjudged to be in violation of this Ordinance shall be subject to a civil penalty of not more than Five Hundred Dollars (\$500.00) for each such violation. The Tribal Council may adopt by resolution a separate schedule of fines for each type of violation, taking into account its seriousness and the threat it may pose to the general health and welfare of tribal members. Such schedule may also provide, in the case of repeated violations, for imposition of monetary penalties greater than the Five Hundred Dollars (\$500.00) limitation set forth above. The penalties provided for herein shall be in addition to any criminal penalties which may hereafter be imposed in conformity with federal law by separate Chapter, or provision of this Ordinance or by a separate Ordinance adopted by the Tribal Council.

**Section 7.2 Initiation of Action.** Any violation of this Ordinance shall constitute a public nuisance. The Tribal Council may initiate and maintain an action in tribal court or any court of competent jurisdiction to abate and permanently enjoin any nuisance declared under this Ordinance. Any action taken under this Section shall be in addition to any other penalties provided for this Ordinance.

Dated: April 30, 1999.

**Kevin Gover,**

*Assistant Secretary—Indian Affairs.*

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## **DEPARTMENT OF THE INTERIOR**

### **Bureau of Indian Affairs**

#### **Pueblo of Taos Liquor Ordinance**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

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**SUMMARY:** This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that Resolution No. 99-04, enacting the Liquor Ordinance of the Pueblo of Taos was duly adopted by the Pueblo of Taos on February 25, 1999. The Ordinance provides for the regulation of the activities of the regulation, manufacture, distribution, possession, sale, and consumption of liquor on the Pueblo of Taos lands under the jurisdiction of the Pueblo of Taos, the provisions for criminal jurisdiction to be exercised in accordance with applicable Federal case law, statutes, and regulations.

**DATES:** This Ordinance is effective as of May 10, 1999.

**FOR FURTHER INFORMATION CONTACT:** Jim D. James, Division of Tribal Government Services, 1849 C Street, NW, MS 4631-MIB, Washington, DC 20240-4001; telephone (202) 208-4400.

**SUPPLEMENTARY INFORMATION:** The Liquor Ordinance of the Pueblo of Taos is to read as follows:

#### **Taos Pueblo Liquor Ordinance**

##### **Section 1. Introduction**

A. **Title.** The title of this ordinance shall be the Taos Pueblo Liquor Ordinance.

B. **Authority.** This Ordinance is enacted in accordance with the inherent governmental powers of the Taos Pueblo, whose traditional law

empowers its Tribal Council to enact ordinances. This Ordinance is in conformance with the laws of New Mexico, as required in 18 U.S.C. 1161.

### Section 2. Definitions

A. "Alcoholic beverage" or "Liquor" includes the four varieties of liquor commonly referred to as alcohol, spirits, wine, and beer, and 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 any otherwise intoxicating liquid, including every liquid or solid or semi-solid or other substance, patented or not, containing alcohol, spirits, wine, or beer and intended for oral consumption.

B. "Governor" means the Governor of the Taos Pueblo or his designee.

C. "Licensed Establishment" means a location on Taos Pueblo Lands designated by the Taos Pueblo Tribal Council as a licensed establishment for the purpose of selling alcoholic beverages. Designation by the Tribal Council must show the location of the land and building of the establishment, by map and general description.

D. "Minor" means any person under the age of twenty-one (21) years.

E. "Person" means a natural person, corporation, firm, partnership, joint venture, association, or other entity, including, but not limited to, the Pueblo and an agency of the Pueblo.

F. "Pueblo" means the Taos Pueblo, a federally-recognized tribe of Indians, located within the exterior boundaries of the State of New Mexico.

G. "Taos Pueblo Lands" means lands owned by the Pueblo within the exterior boundaries of Taos Pueblo's Grant, its Tenorio Tract, Karavas Tract, or Tracts A, B, or C, including any lands which may in the future lawfully come within the ownership and jurisdiction of the Pueblo.

### Section 3. Purposes

#### A. Tribal Council Control of Location of Sales

Taos Pueblo has decided to open certain limited locations within its jurisdiction to the possession, consumption and sale of alcoholic beverages by enacting this Ordinance adopted pursuant to 18 U.S.C. 1161. The locations which are open to the sale, possession, and consumption of alcoholic beverages shall be only commercial establishments in which the Pueblo owns a controlling interest, which are located on Taos Pueblo Lands and which are Licensed Establishments. No licensed establishment shall be located closer than 500 feet from any

church, school, or military installation. A licensed establishment will be specifically designated so as to permit sales either by the package or by the drink, provided that any convenience store shall be open only to sale and possession, but not consumption, of alcoholic beverages.

#### B. Control of Sales and Distribution; Provision of Tribal Revenue

This Ordinance shall govern all sales and distribution of alcoholic beverages on Taos Pueblo Lands and will allow the licensing of liquor establishments and the granting of liquor permits to persons to provide an additional source of revenue for tribal operations.

#### C. Goals of Regulation

Pueblo regulation of the sale, possession, and consumption of liquor on Taos Pueblo Lands is necessary to protect the health, security, and general welfare of the Pueblo, and to address tribal concerns relating to alcohol use. To further these goals and provide an additional source of governmental revenue, the Pueblo has adopted this Ordinance, which shall be liberally construed to fulfill the purposes for which it has been adopted.

### Section 4. Sales, Purchases, Distribution, Possession, Consumption

#### A. Authorization

Persons are hereby authorized to introduce, sell, dispense, purchase, distribute, warehouse, possess and consume alcoholic beverages at Licensed Establishments on Taos Pueblo Lands in accordance with the laws of the State of New Mexico, provided, however, that any person who sells alcoholic beverages on Taos Pueblo Lands must first obtain a tribal liquor permit from the Tribal Council or be employed by the holder of such a permit.

#### B. Tribal Liquor Licenses for Establishments

Each tribal liquor license for an establishment shall set forth the location and description of the building and premises for which the license is issued and shall define by map and general description the area of the Licensed Establishment within which the holder of a tribal liquor permit may sell alcoholic beverages.

#### C. Tribal Liquor Permits

1. In General. A tribal liquor permit shall authorize the holder thereof and its employees to sell alcoholic beverages at retail in cans, bottles or any other package for one year within a strictly defined area which shall be the

Licensed Establishment; provided, however, that a tribal liquor permit shall be valid only if the holder thereof and its employees who sell, serve or dispense liquor are in compliance with the laws of any other jurisdiction which may have authority with regard to liquor sales and regulation on Taos Pueblo Lands, and provided further, that the liquor business conducted at the Licensed Establishment shall be conducted by the permittee or its employees directly, and shall not be conducted by any lessee, sublessee, assignee or other transferee.

2. Permit Procedure. a. Only persons authorized by the Taos Pueblo Tribal Council may be granted a permit to sell intoxicating beverages.

b. A person applying for a permit must furnish to the Governor a completed application for a tribal liquor permit. If the applicant is an entity other than a natural person, the application shall provide the required information with respect to each member of its governing board, any individual who owns or controls a financial interest of more than ten percent in such entity, and any individual who manages the liquor business. Such application must contain, among other things, the following information:

(i) An exhaustive listing of all jobs, businesses, and other employment for the immediately preceding ten years;

(ii) A listing of all residences for the immediately preceding ten years, including street address, city, and state, and dates of residence at each different location;

(iii) A list of every liquor license or permit, by number and state, in which the applicant has directly or indirectly owned or had any interest;

(iv) Detail with respect to past criminal activity, including conviction for any felony, conviction for any misdemeanors, and conviction for a violation of any federal or state liquor control act in any calendar year, except that traffic offenses need not be listed; and

(v) Detail as to whether the applicant ever applied for a liquor license or permit from any government entity and was denied and the reasons for any denial.

c. The applicant shall provide two complete sets of fingerprints on a form designated; and the costs associated with supplying the complete sets and the investigation thereafter will be borne exclusively by the applicant.

d. The applicant must give his/her consent that the fingerprints may be processed by local and national law enforcement agencies and all other available agencies. If the search, by

virtue of the fingerprint submission, reveals any adverse information which was not shown by the applicant on the application, the applicant will be given an opportunity to explain the circumstance of such omission or challenge the authenticity of the revealed information.

#### F. Granting, Denial, Termination or Revocation of Licenses and Permits

The granting, denial, termination, or revocation of a license for an establishment or a permit to an applicant will be within the discretion of the Taos Pueblo Tribal Council. The Governor, after reviewing the application and making appropriate inquiry, will make a recommendation to the Tribal Council. The following classes of persons shall be prohibited from being granted a permit to sell or serve intoxicating beverages:

1. Any person convicted of a felony; and

2. A minor.

Revocation of a liquor license or liquor permit will occur only following an opportunity to be heard. Any holder of a tribal liquor permit who is found, after notice and hearing, to have violated this Ordinance or to have provided false information on his/her application, shall have his/her tribal liquor permit revoked and shall be ineligible to apply for a new tribal liquor permit for three months after the date of the revocation.

#### Section 5. Prohibited Sales and Practices

No holder of a tribal liquor permit and none of its employees may:

A. Sell, serve, or dispense intoxicating beverages to any person who is obviously intoxicated;

B. Award alcoholic beverages as prizes;

C. Sell alcoholic beverages at a drive-up or walk-up window;

D. Sell alcoholic beverages to a minor who has not attained the age of 21;

E. Knowingly sell alcoholic beverages to an adult purchasing such liquor on behalf of a minor or an intoxicated person; and

F. Allow a person to bring alcoholic beverages onto the premises of a Licensed Establishment for the purposes of consuming them himself/herself or providing them to other individuals.

#### Section 6. Criminal Penalties

##### A. Penalties

Any person guilty of a violation of this Ordinance shall be liable upon conviction for up to 90 days confinement and/or fine of \$500 for each violation, plus costs.

#### B. Limitations

##### 1. Indian Civil Rights Act

Notwithstanding any other provision of this Ordinance, no penalty may be imposed pursuant or related to this Ordinance in contravention of any limitation imposed by the Indian Civil Rights Act of 1968, 82 Stat. 77, 25 U.S.C. 1301 *et seq.* ("ICRA") or other applicable Federal law.

##### 2. Violations by Non-Indians

Nothing in this Ordinance shall be construed to authorize the criminal trial or punishment by the Tribal Court of any non-Indian except the extent allowed under Federal law. When any provision of this Ordinance is violated by a non-Indian, he/she shall be referred to state and/or Federal authorities for prosecution under applicable law. It is the intent of the Pueblo that any non-Indian referred to state and/or Federal authorities be prosecuted to the full extent of applicable law. In addition, any non-Indian, upon committing any violation of the Ordinance, may be subject to a civil action for trespass, and upon having been determined by the Tribal Court to have committed the violation, shall be found to have trespassed upon Taos Pueblo Lands and shall be assessed such damages as the Court deems appropriate.

#### Section 7. Rules and Regulations

The Tribal Council may adopt and enforce rules and regulations to implement this Ordinance. The rules and regulations will be in conformance with New Mexico state law, if applicable, and with this Ordinance.

#### Section 8. Citations; Enforcement

Citations for violations of any provision of this Ordinance or rules or regulations promulgated hereunder may be issued by an officer of the Taos Pueblo police department or any person authorized by the Governor.

#### Section 9. Repeal of Prior Inconsistent Enactments by Tribal Council

This Ordinance repeals all prior enactments of the Taos Pueblo Tribal Council which are inconsistent with the provisions of this Ordinance. This repeal shall be effective on the date of publication of this Ordinance in the **Federal Register**.

#### Section 10. Severability

In the event any provision of this Ordinance or its application to any particular activity is held to be invalid or illegal by a court of competent jurisdiction, the remaining provisions and the remaining applications of such

provision shall remain in full force and effect.

#### Section 11. Sovereign Immunity

The sovereign immunity of the Taos Pueblo is not waived by this Ordinance.

#### Section 12. Amendments

This Ordinance may be amended only by majority vote of the Tribal Council.

#### Section 13. Effective Date

This Ordinance shall be effective as a matter of tribal law as of the date of its adoption by the Tribal Council, and effective as a matter of federal law on such date as the Secretary of the Interior certifies and publishes the same in the **Federal Register**.

Dated: April 30, 1999.

**Kevin Gover,**

*Assistant Secretary—Indian Affairs.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Mission Valley Power Utility, Montana Power Rate Adjustment

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of proposed rate adjustment.

**SUMMARY:** The Bureau of Indian Affairs (BIA) proposes to adjust the electric power rates for operation and maintenance of the Mission Valley Power (MVP), the Confederated Salish and Kootenai Tribal entity operating the power facility of the Flathead Irrigation and Power Project of the Flathead Reservation under a Public Law 93-638 contract.

**DATES:** Comments must be submitted on or before June 9, 1999.

**ADDRESSES:** Written comments on rate adjustments should be sent to Assistant Secretary—Indian Affairs, Attn: Branch of Irrigation and Power, MS-4513-MIB, Code 210, 1849 "C" Street, NW, Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Stan Speaks, Area Director, Bureau of Indian Affairs, Portland Area Office, 911 N.E. 11th Avenue, Portland, Oregon 97232-4169, telephone (503) 231-6702; or General Manager, Mission Valley Power, P. O. Box 1269, Polson, Montana 59860-1269, telephone (406) 883-5361.

**SUPPLEMENTARY INFORMATION:** The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301; the Act of August 7, 1946, c. 802, Section 3 (60 Stat. 895; 25 U.S.C.