

**DEPARTMENT OF THE INTERIOR****Bureau of Indian Affairs****Tulalip Liquor Ordinance**

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

**ACTION:** Notice.

**SUMMARY:** This notice publishes an amendment to the Tulalip Tribe's Liquor Control Ordinance published in the **Federal Register** September 16, 1977 (42 FR 46612). The amendment regulates and controls the possession and consumption of liquor within the tribal lands. The tribal lands are located in Indian country and this amended Ordinance allows for possession of alcoholic beverages within their boundaries. This Ordinance will increase the ability of the tribal government to control liquor sales, possession and consumption by the community and its members.

**DATES:** *Effective Date:* This Ordinance is effective on April 27, 2009.

**FOR FURTHER INFORMATION CONTACT:** Betty Scissons, Tribal Government Services Officer, Northwest Regional Office, 911 NE 11th Ave., 8th Floor, Portland, OR 97232, Telephone: (503) 231-6723, Fax (503) 231-2189; or Elizabeth Colliflower, Office of Indian Services, 1849 C Street NW., Mail Stop 4513-MIB, Washington, DC 20240, Telephone: (202) 513-7640.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Act of August 15, 1953, Public Law 83-277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted or amended liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Tulalip Tribes of Washington amended its Tribal Liquor Ordinance by Resolution No. 2008-180 on June 6, 2008. The purpose of this Ordinance is to govern the sale and possession of alcohol within tribal lands of the Tribe. This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that the Board of Directors duly adopted the amended Liquor Ordinance for the Tulalip Tribes of Washington on June 6, 2008.

Dated: March 16, 2009.

**George Skibine,**

*Deputy Assistant Secretary for Policy and Economic Development.*

The amended Liquor Ordinance No. 42 of the Tulalip Tribes of Washington reads as follows:

**Tulalip Liquor Ordinance**

An ordinance governing sale, distribution, and taxation of liquor within the exterior boundaries of the Tulalip Indian Reservation, establishing a board for control and administration of liquor and regulating the use thereof.

The Board of Directors of the Tribes of Washington in the exercise of said Tribes jurisdiction within the exterior boundaries of the Tulalip Indian Reservation do hereby promulgate and enact the following liquor ordinance pursuant to the powers vested in it by Article VI, Section 1(l) and (m) of the Constitution and By-Laws of the Tulalip Tribe of Washington and the Act of August 15, 1953, 67 Stat. 586, U.S.C. 1161, as follows:

**Section 1. Title**

This Ordinance shall be known as the Tulalip Liquor Ordinance.

**Section 2. Revocation of Prior Ordinance**

All Ordinances and Resolutions of the Tulalip Tribes regulating, authorized, prohibiting or in any wise dealing with the sale of liquor heretofore enacted or now in effect are hereby repealed and of no further force and effect.

**Section 3. Definitions**

“*Liquor*” means that liquid as at this date defined by the Revised Code of Washington in RCW 66.04.010 (1), (2), (16), (29) and (35).

“*Sale*” and “*sell*” means as now defined as set forth by the Revised Code of Washington in RCW 66.04010 (27).

Such definitions are hereby adopted by reference.

**Section 4. Prohibitions**

(A) The purchase, sale, and dealing in liquor within the exterior boundaries of the Tulalip Indian Reservation by any person, party, firm, or corporation except pursuant to the control and regulation of the Tulalip Liquor Commission hereby established and declared lawful.

(B) No person shall sell any liquor to any person obviously under the influence of liquor.

(C) No person who is obviously under the influence of liquor may purchase or consume liquor on any premises licensed by the Commission.

(D) A violation of this Section is an infraction punishable by a fine of up to five hundred dollars.

**Section 5. Retroactivity**

The provisions of this ordinance shall be prospective only from the date of its enactment herein contained shall be deemed to revoke any presently existing valid license or permit or renewal thereof previously issued by the Washington State Liquor Control Board or the exercise of privilege given thereunder.

**Section 6. Tulalip Liquor Commission**

The Board of Directors of the Tulalip Tribes are hereby constituted as the “*Tulalip Liquor Commission*” and empowered to administer this Ordinance, including general control, management and supervision of all liquor sales, places of sale and sales outlets, and to exercise all of the powers and accomplish all of the purposed thereof as hereinafter set forth any do the following acts and things for and on behalf of and in the names of the Tulalip Tribes of Washington:

(A) Adopting and enforcing rules and regulations for the purpose of carrying into effect the provisions of this ordinance the performance of its functions;

(B) Collecting, auditing and issuing fees, licenses, taxes and permits;

(C) Purchasing, warehousing and selling of liquor in the original package;

(D) Executing all contracts, papers and documents in the name of the Tulalip Tribes of Washington or the Tulalip Liquor Commission;

(E) Providing housing for its activities and all necessary equipment and fixtures with which to do business;

(F) Hiring and firing of employees, fixing their duties and delegating to such specific powers and authorities;

(G) Paying all customs, duties, excises, charges and obligation whatsoever related to the business of the Commission;

(H) Performing all matters and things incidental to and necessary to conduct its business and carry out its duties and functions.

**Section 7. Funds—Appropriation**

All revenue received, funds collected and property acquired by the Commission shall be and are the property of the Tulalip Tribes of Washington and the Commission shall annually account for the same to it and pay the net proceeds of its activities into the general funds of the Tulalip Tribes of Washington subject to appropriation by it to the use of the Commission as the Tribal Board of Directors shall see fit.

There is hereby appropriated to the uses and purposes of said Commission from the tribal funds the sum of \$15,000.

#### *Section 8. Powers of the Commission*

The Commission hereby empowered to establish and operate a Tulalip Liquor Store within the exterior boundaries of the Tulalip Indian Reservation upon tribal property, not otherwise, and to operate the same and sell liquor thereat for such price as it shall from time to time fix and determine.

#### *Section 9. Excise Tax Levy*

There is hereby levied and shall be collected an excise tax upon each sale of liquor, except beer and wine, in whatever package or container, or whether at wholesale or retail, of three (3) cents per fluid ounce or fraction thereof contained in such package container.

#### *Section 10. Tax on Retail Sale*

There is hereby levied and shall be collected a tax upon each retail sale of wine and beer in the original package at a rate equal to five percent (5%) of the selling price, which tax shall be paid by the buyer to the seller who shall collect the same and hold it in trust for payment to the Tulalip Liquor Commission in the same manner and at the same time the seller would be required to pay Washington State Retail Sales Tax pursuant to RECW 82.08.150 to the State of Washington if such tax were applicable, but regardless of whether or not such State tax is applicable. All records and tax returns required to be kept by seller by the State of Washington as if such State tax were applicable, shall be kept by the seller and made available for inspection. Such shall be prima facie proof of the amount of tax due and collectable; that the provisions of this paragraph requiring records, tax returns and payment of tax to the Commission shall not be applicable to sales made by the Commission.

#### *Section 11. Tax Remit*

The Commission shall remit to the Treasurer of the Tulalip Tribe on the twenty-fifth (25) day of every month to be deposited in the tribal treasury all moneys collected by it in the preceding month by reason of the levy of excise tax. Said tax shall be added to the sale price of liquor sold and be collected from the purchaser thereof the Commission shall also regularly remit for similar deposit to said Treasurer all retail sales taxes collected by it upon sales of beer and wine.

#### *Section 12. Conformity With the State Law*

Nothing herein contained shall be construed to supersede the substantive laws of the State of Washington effective within the exterior boundaries of the Tulalip Indian Reservation and, where not inconsistent herewith, the substantive standards of the criminal laws of the State of Washington regarding sale, consumption and use of liquor shall apply.

#### *Section 13. Severability and Construction*

If any clause, part, or section of this act shall be adjudged invalid, such judgment shall not affect nor invalidate the remainder of the act, but shall be confined in its operation to the clause, part or section directly involved in the controversy in which such judgment was rendered. If the operation of any clause, part or section of this act shall be held to impair the operation of contract, or to deny to any person any right or protection secured to him by the Constitution of the United States of America, or by the Constitution of the State of Washington it is hereby declared that, had the invalidity of such clause, part or section been considered at the time of the enactment of the act, the remainder of the act would nevertheless have been adopted without such and any and all such invalid clauses, parts or sections.

#### *Section 14. Effective Date*

This Ordinance shall be and become effective after thirty (30) days of publication by the United States Department of the Interior's certification in the **Federal Register**.

#### *Section 15. Sovereign Immunity*

Nothing in this Ordinance shall be construed as a waiver or limitation of the sovereign immunity of the Tulalip Tribes, except as its sovereign immunity has been waived by the Tulalip Tribes' Tort Claims Ordinance #122.

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Fort Sill Apache Tribe Alcohol Control Ordinance

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

**ACTION:** Notice.

**SUMMARY:** This notice publishes Fort Sill Apache Tribe Alcohol Control

Ordinance. The Ordinance regulates and controls the possession, sale, and consumption of liquor within the tribal lands. The tribal lands are located in Indian country and this Ordinance allows for possession and sale of alcoholic beverages within their boundaries. This Ordinance will increase the ability of the tribal government to control the community's liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal services.

**DATES:** *Effective Date:* This Ordinance is effective on March 27, 2009.

#### **FOR FURTHER INFORMATION CONTACT:**

Suzanne Chaney, Tribal Government Services Officer, Southern Plains Regional Office, WCD Office Complex, PO Box 368, Anadarko, OK 73005, Telephone: (405) 247-1537, Fax (405) 247-9240; or Elizabeth Colliflower, Office of Indian Services, 1849 C Street NW., Mail Stop 4513-MIB, Washington, DC 20240, Telephone: (202) 513-7627.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Act of August 15, 1953, Public Law 83-277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Fort Sill Apache Tribe of Oklahoma Tribal Business Committee adopted its Alcohol Control Ordinance by Resolution No. FSABC-2008-2-A on August 21, 2007. This liquor control ordinance amends the first alcohol control ordinance published in the **Federal Register** for the Tribe. The purpose of this Ordinance is to govern the sale, possession, and distribution of alcohol within tribal lands of the Tribe.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that this Alcohol Control Ordinance of the Fort Sill Apache Tribe of Oklahoma was duly adopted by the Business Committee on August 21, 2007.

Dated: March 17, 2009.

**George Skibine,**

*Deputy Assistant Secretary, for Policy and Economic Development.*

The Fort Sill Apache Tribe Alcohol Control Ordinance reads as follows: