

any CITES export permit, the Service must be able to determine that the specimens to be exported were legally acquired, that the export would not be detrimental to the species, and that live specimens will be prepared and shipped in a humane manner. To ensure that the Service carries out these responsibilities in a consistent manner, the Service will consider the issuance of permits for the export of live American alligators (*Alligator mississippiensis*) in the following context:

1. Applications for export permits for scientific research should include:

a. Formal research protocol with timetable;

b. Qualifications of the scientific personnel conducting the proposed research;

c. Description of the facilities where the specimens will be housed and precautions that will be taken to prevent escape; and

d. Plans for disposition of the alligators and any progeny upon completion of the research project.

2. Applications for export permits for zoological display should include:

a. A description of the receiving facility including the housing planned or in existence for the requested alligators and measures to be taken to prevent escape; and

b. Plans for disposition of the alligators and any progeny should the facility close or become overcrowded.

3. Applications for export permits for captive breeding or resale will not be accepted.

If adopted, this proposed policy would remain in place until further notice. If substantial new biological information is received, the basis for these findings would be reviewed.

Dated: May 1, 1998.

Jamie Rappaport Clark,

Director.

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BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Salt River Pima-Maricopa Indian Community Alcoholic Beverage Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

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 amendment of the Salt River Pima-Maricopa Indian Community Alcoholic Beverage Control Ordinance, Resolution No. SR-1797-98, was duly adopted and certified by the Salt River Pima-Maricopa Indian Community Council on February 18, 1998. This Ordinance amends an earlier ordinance published in Volume 38 of the **Federal Register** at page 3416. This Ordinance provides for the regulation of the sale, possession and consumption of liquor within the Salt River Pima-Maricopa Indian Community, under the jurisdiction of the Salt River Pima-Maricopa Indian Community and is in conformity with the laws of the State of Arizona.

DATES: This Ordinance is effective May 8, 1998.

FOR FURTHER INFORMATION CONTACT:

Bettie Rushing, Division of Tribal Government Services, 1849 C Street NW, MS 4603-MIB, Washington, D.C. 20240-4001; telephone (202) 208-3463.

SUPPLEMENTARY INFORMATION: The Tribal Liquor Ordinance for the Salt River Pima-Maricopa Indian Community is to read as follows:

Salt River Pima-Maricopa Indian Community Alcoholic Beverage Control Ordinance

1. Preamble

(a) *Title.* This Ordinance shall be known as the Salt River Pima-Maricopa Indian Community Alcoholic Beverage Control Ordinance.

(b) *Authority.* This Ordinance is enacted pursuant to the Act of August 15, 1953. (Pub. L. 83-277, 67 Stat. 588, 18 U.S.C. § 1161) and Article VII of the Salt River Pima-Maricopa Indian Community Constitution.

(c) *Purpose.* The purpose of this Ordinance is to regulate and control the possession, consumption, and sale of liquor on the Salt River Pima-Maricopa Indian Community. The enactment of an ordinance governing liquor possession and sale on the reservation will increase the ability of the Community government to control reservation liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation and strengthening of the Community government and the delivery of Community government services.

(d) *Application of 18 U.S.C. § 1161.*

All acts and transactions under this Ordinance shall be in conformity with this Ordinance and in conformity with the laws of the State of Arizona as that term is used in 18 U.S.C. § 1161.

(e) *Effective Date.* This Ordinance shall be effective upon the date of its publication in the **Federal Register**.

2. Definitions

In this ordinance unless the context otherwise requires:

(a) *Alcoholic Beverages* means beer, wine or other spirituous liquor.

(b) *Community* means the Salt River Pima-Maricopa Indian Community.

(c) *License* means a license issued pursuant to the provisions of this ordinance.

(d) *Licensed Premises* or *Premises* means a place from which a licensee is authorized to sell alcoholic beverages under the provisions of this ordinance.

(e) *Licensee* means a person who has been authorized to sell alcoholic beverages for consumption at a particular premise by the Salt River Pima-Maricopa Indian Community.

(f) *Person* means a natural person or a corporation duly chartered by a jurisdiction within the United States.

(g) *Private Residence* means a place where an individual or a family maintains a habitation.

(h) *Public Place* means any place not a private residence and not licensed for the possession of alcoholic beverages.

(i) *Sell, Sold, Buy* shall include furnish, dispose of, give, receive or acquire.

3. Unlawful Acts

(a) It shall be unlawful for any person to deal with alcoholic beverages in any manner not allowed by this Ordinance or the regulations adopted under this Ordinance.

(b) It shall be unlawful for a licensee or other person to give, sell or cause to be sold or otherwise distribute alcoholic beverages to a person under the age of 21 years.

(c) It shall be unlawful to employ a person under the age of 21 years in any capacity connected with the handling of alcoholic beverages.

(d) It shall be unlawful for a person under the age of 21 years to buy, possess, or consume alcoholic beverages.

(e) It shall be unlawful for a licensee or an employee of a licensee to consume alcoholic beverages on or about the licensed premises during such periods such person is working at the licensed premises.

(f) It shall be unlawful for a licensee or any other person to sell alcoholic beverages to an intoxicated or disorderly person, or for a licensee or employee of a licensee to allow or permit an intoxicated or disorderly person to remain on the premises.

(g) It shall be unlawful for a licensee to sell alcoholic beverages in any

manner not provided for by this ordinance or the licensee's license.

4. Lawful Commerce With Alcoholic Beverages

(a) Alcoholic beverages may be possessed and consumed only at private residences and licensed premises, and may be transported in unbroken containers to such places.

(b) Alcoholic beverages may be sold at licensed premises only under the conditions under which the license is issued.

(c) The Community may from time to time issue licenses for the sale of alcoholic beverages subject to the provisions of this ordinance and the regulations adopted pursuant to this Ordinance.

5. Issuance of License, Regulation, Revocation, Fees, Hearings

(a) The Office of Alcohol Beverage Control ("Office") is hereby established. The director of the Office will be the Alcohol Beverage Hearing Officer who will be responsible to the Community Manager and whose duties may be delegated from time to time to assistant hearing officers or other employees of the Office. All of the positions of the Office will be filled and will be conducted in accordance with the Community's established policies and procedures.

(b) *Regulations*—The Director of the Office shall propose for adoption by the Salt River Pima-Maricopa Indian Community Council regulations for the purpose of carrying out the provisions of this ordinance. Such regulations shall:

- (1) Establish a procedure for application for license through the Office provision for public hearings before final decision by the Alcohol Beverage Hearing Officer;
- (2) Provide uniform standards of qualification for licensees;
- (3) Determine the information required to be supplied by applicants for license, and for the verification of such information. Applicants shall include in the case of a corporation, all shareholders of more than 5% of the corporate stock and all officers and directors of the corporation; and in the case of a partnership, all of the partners;
- (4) Establish the fee for an application, renewal application and annual license provided that no such fee shall in the first year of this ordinance exceed \$1,500.00 or increase more than 5% per annum thereafter;
- (5) Establish hours within which premises may be open;
- (6) Establish standards for operation of licensed premises and for the audit of

records to be supplied to the Community;

(7) Establish classes of licenses for the sale of (i) all alcoholic beverages, (ii) only beer, (iii) only wine, or (iv) only beer and wine;

(8) Establish a procedure for revocation and suspension of licenses which will be administered by the Alcohol Beverage Hearing Officer.

(c) *Beverage restrictions*—Licenses may only be issued for premises operated under the following classifications as defined herein; and such licenses may be restricted to the sale of (i) all alcoholic beverages, (ii) only beer, (iii) only wine, or (iv) only beer and wine.

(d) *Designated area*—Licenses may be issued for premises located only on land described on the Designated Area Map attached to this ordinance and filed in the official records of the Community in the Office of the Secretary. Additional land may be described as within the "Designated Area" by the enactment by the Community Council of an ordinance amending the Designated Area Map.

(e) *Premises which may be licensed*—Licenses may only be issued for premises as defined in this subsection (e) or its subparagraphs.

(1) Hotel-Motel License

(i) The Alcohol Beverage Hearing Officer may issue a hotel-motel license to any hotel or motel that would qualify for a restaurant license under the terms of a restaurant license and/or for the operation of one or more bars in such hotel or motel provided that the applicant is otherwise qualified to hold a license.

(ii) The holder of a hotel-motel license is authorized to sell and serve alcoholic beverages solely for consumption on the licensed premises. For the purpose of this section "Licensed Premises" shall include all public bar rooms, public restaurant rooms and, private banquet rooms supplied by the hotel-motel restaurant.

(iii) Restaurant" means an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

(2) Casino License

(i) The Alcohol Beverage Hearing Officer may issue a casino license to any casino authorized to operate as a casino by the Community.

(ii) The holder of a casino license is authorized to sell and serve alcoholic beverages solely for consumption on the licensed premises. For the purpose of this section "licensed premises" shall include all public bar rooms, gaming

areas, private banquet or meeting rooms and restaurants and other food service facilities.

(3) Golf Course Club House License

(i) The Alcohol Beverage Hearing Officer may issue a Golf Course Club House license to any Golf Course Club House.

(ii) The holder of a Golf Course Club House license is authorized to sell and serve alcoholic beverages solely for consumption on the licensed premises and only to patrons of the Golf Course Facility. For the purpose of this section "licensed premises" shall include all restaurant, bar and lounge facilities within the Golf Course Club House. For purposes of this section, a "Golf Course Club House" means a Club House located on a golf course.

(f) Issuance of Licenses, Hearings

(1) Licenses will be issued by the Director of the Office of Alcohol Beverage Control after a hearing and upon a determination by the Alcohol Beverage Hearing Officer that there has been a satisfactory showing of the capability, qualifications and reliability of the Applicant, and in the case of a corporation, its principal stockholders, offices and directors, and of a partnership, its partners, and that the public convenience requires and the best interests of the Community will be substantially served by the issuance of the license. The Salt River Pima-Maricopa Indian Community Police Department shall, at the request of the President of the Community and for the purposes of this subparagraph, do a criminal history background check qualification on any applicant for a license under this ordinance.

(2) The Alcohol Beverage Hearing Officer shall determine after a hearing has been held whether and under what conditions a license shall be issued. The hearing shall be announced by notice in the Community newspaper. Notice shall be given no less than 10 days prior to such hearing. The hearing shall be conducted by the Alcohol Beverage Hearing Officer in an informal manner with rules adopted pursuant to this ordinance calculated to assure full disclosure of all relevant information. Professional attorneys shall not be permitted to represent parties at any such hearing or hearings on appeal. The Alcohol Beverage Hearing Officer shall hear all relevant issues and within 5 days after the hearing is concluded shall issue a written decision. The decision will contain the findings of fact relied on by the Alcohol Beverage Hearing Officer for the decision as well as the decision. The findings of fact and

decision shall be filed with the Clerk of the Salt River Pima-Maricopa Indian Community Court and distributed within two (2) days after such filing to the applicant, any other person who files a notice of appearance with the Alcohol Beverage Hearing Officer before the hearing is adjourned, and the Secretary of the Salt River Pima-Maricopa Indian Community.

(3) A decision of the Alcohol Beverage Hearing Officer under Section 5(f)(1) and (2) and 5(g) may be appealed to the Salt River Pima-Maricopa Indian Community Court by the applicant, the Community, or any Community member who has filed a notice of appearance.

(4) Appeals shall be taken from any decision of the Alcohol Beverage Hearing Officer in the following manner:

(i) *Notice of appeal.* Written notice of appeal shall be given within ten (10) days after the day the written and executed decision is filed with the Clerk of the Salt River Pima-Maricopa Indian Community Court. The notice of appeal shall state all the grounds for appeal relied on by the appellant. The notice of appeal shall not be amended once it is filed. The appellee may file a short written response to the grounds for appeal within ten (10) days after the notice of appeal is filed. The notice of appeal and response shall be mailed to the opposing party on the day it is filed. If the appellant is the applicant for the license, the appellee shall in all cases be the Alcohol Beverage Hearing Officer. If the appellant is a person who filed a notice of appearance or the Community, the appellee shall in all cases be the applicant. In the event there is more than one Notice of Appeal filed, the appeals shall be consolidated by the Clerk and only one response shall be filed to the consolidated appeals.

(ii) *Costs.* There shall be posted with the Clerk of the Salt River Pima-Maricopa Indian Community Court a cash fee of \$25.00 to cover court costs.

(iii) *Grounds for appeal.* The court shall determine the appeal upon the findings of fact and decision entered in the case by the Alcohol Beverage Hearing Officer.

(iv) *Findings of fact.* The findings of fact shall be presumed to be without reversible error. The presumption may be overcome by a sworn written statement presented to the court at the time of the filing of the notice of appeal which establishes on the basis of the statement, any one or more of the following grounds:

(A) That a witness ready and willing to testify at the time of the hearing on behalf of the appellant was not allowed by the Alcohol Beverage Hearing Officer

to take the witness stand and testify, and such testimony would have materially altered the decision of the Alcohol Beverage Hearing Officer.

(B) That the Alcohol Beverage Hearing Officer refused to admit documentary or other physical evidence, and such evidence would have materially altered the decision of the Alcohol Beverage Hearing Officer.

(C) That after the hearing the appellant discovered material evidence which, with reasonable diligence, could not have been discovered and produced at the hearing, and such evidence would have materially altered the decision of the Alcohol Beverage Hearing Officer. In the event the court finds the presumption is overcome pursuant to this subsection, the court shall remand the case back to the Alcohol Beverage Hearing Officer for the limited purpose of hearing only the excluded or new evidence and any evidence presented in rebuttal to such evidence. The hearing will be held within ten (10) days after the order of the court has been filed and served upon the appellants and appellee. At the conclusion of such remand hearing, the Alcohol Beverage Hearing Officer shall, within ten (10) days of the hearing, make and enter such amended findings of fact and decision as the Alcohol Beverage Hearing Officer determines that the evidence adduced at the remand hearing requires. If the Alcohol Beverage Hearing Officer determines that the prior findings of fact requires no amendment, the Alcohol Beverage Hearing Officer will issue a decision reaffirming its prior findings of fact and decision. The findings of fact and decision will be transmitted to the court and such findings of fact and decision will not be subject to a separate appeal.

(v) *Decision.* The court shall determine whether the decision is supported by the findings of fact and the law. Any party to the case may request an opportunity to appear before the court prior to its decision to give the court such party's view of the case. The other party or parties shall be given adequate notice of the hearing and an opportunity to present such party's or parties' view of the case. Such views shall be presented orally by the parties or their advocates and shall only deal with the grounds relied on by the appellant as set out in the notice of appeal. The hearing shall be limited to one hour and the time will be equally divided between the appellant and the appellee. If the court finds that the decision is incorrect, it shall issue a new decision correctly stating the decision. Such decision shall be final and not subject to rehearing, review or appeal.

(5) *Records of application, permit and proceedings.* A complete record of all applications, actions taken thereon, and any licenses issued shall be maintained by the Community and shall be open for public inspection at the Office of Alcohol Beverage Control.

(g) Licenses shall be issued for a period of one year and are renewable on application to the Office of Alcohol Beverage Control which will renew on payment of renewal application fee and annual license fee.

(h) Licenses issued under this ordinance are non-transferable without the prior approval of the Alcohol Beverage Hearing Officer after the application process has been completed.

(i) The Office of Alcohol Beverage Control, the Department of Public Safety or the Community Manager may cite a licensee to appear before the Alcohol Beverage Hearing Officer for a revocation hearing upon allegations of violations under Section 2 hereof.

(j) Any license issued pursuant to this ordinance may be revoked or suspended after a hearing before the Alcohol Beverage Hearing Officer upon a finding that the licensee is operating the premises in violation of this ordinance or the regulations adopted pursuant to it, or the laws of the Community or that the license would not have been originally issued had the facts in evidence at the time of any revocation hearing been known at the time of the application for a license.

6. Scope of Ordinance

Except for Article I and III of Chapter 14 of the Code of Ordinances of the Salt River Pima-Maricopa Indian Community, this Ordinance constitutes the entire law of the Community in regard to the sale and/or distribution of alcoholic beverages within the Community.

7. Repeal of Ordinance

Article II of Chapter 14 of the Code of Ordinances of the Community is repealed.

Dated: April 28, 1998.

Kevin Gover,

Assistant Secretary—Indian Affairs.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.