

noticed Tribal Council meeting, such amendment to become effective upon publication in the **Federal Register** by the Secretary of the Interior.

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BILLING CODE 4310-02-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Pueblo of Sandia Liquor Sales Ordinance

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

**ACTION:** Notice.

**SUMMARY:** This notice publishes the Pueblo of Sandia Liquor Sales Ordinance. The Ordinance is intended to amend and supplement the Liquor Ordinance which was certified by the Secretary of the Interior and published in the **Federal Register** on March 13, 1958. The Ordinance regulates the control of, the possession of, and the sale of liquor on the Pueblo of Sandia trust and restricted fee lands, and is in conformity with the laws of the State of New Mexico, where applicable and necessary. Although the Ordinance was adopted on October 28, 2000, it does not become effective until published in the **Federal Register** because the failure to comply with the ordinance may result in criminal charges.

**DATES:** This Ordinance is effective on March 26, 2001.

**FOR FURTHER INFORMATION CONTACT:** Kaye Armstrong, Office of Tribal Services, 1849 C Street, NW, MS 4631-MIB, Washington, DC 20240-4001; telephone (202) 208-4400.

**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 transaction in Indian country. The Pueblo of Sandia Liquor Sales Ordinance, Resolution No. 00-44, was duly adopted by the Sandia Pueblo Tribal Council on October 28, 2000. The Pueblo of Sandia, in furtherance of its economic and social goals, has taken positive steps to regulate retail sales of alcohol and use revenues to combat alcohol abuse and its debilitating effects among individuals and family members within the Pueblo of Sandia.

This notice is being published in accordance with the authority delegated by the Secretary of the Interior to the

Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1.

I certify that by Resolution No. 00-44, the Pueblo of Sandia Liquor Sales Ordinance was duly adopted by the Sandia Pueblo Tribal Council on October 28, 2000.

Dated: March 12, 2001.

**James H. McDivitt,**

*Deputy Assistant Secretary—Indian Affairs (Management).*

The Pueblo of Sandia Tribal Council Liquor Ordinance, Resolution No. 00-44, reads as follows:

#### Liquor Sales Ordinance of the Pueblo of Sandia

**BE IT ORDAINED AND ENACTED** by the Pueblo of Sandia as follows:

##### Section 1. Introduction

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

*B. Authority.* This ordinance is being passed and enacted in accordance with the inherent governmental powers of the Pueblo of Sandia, a federally-recognized tribe of Indians, and in conformance with the laws of the State of New Mexico, as required by 18 U.S.C. Section 1161.

*C. Purpose.* The purpose of this ordinance is to regulate the sale of Intoxicating Beverages (as herein defined) within the exterior boundaries of the Pueblo of Sandia.

##### Section 2. Definitions

*Enterprise* means a Person, Individual(s) employed by the Pueblo, or business owned and/or operated by the Pueblo, engaged in, or desiring to engage in, the business of selling Intoxicating Beverages.

*Governor* means the Governor of the Pueblo of Sandia or his designee.

*Individuals employed by the Pueblo* means persons who are tribal employees.

*Intoxicated Person* means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or drugs.

*Intoxicating Beverage* includes the four varieties of liquor commonly referred to as alcohol, spirits, wine, and beer, and all fermented, spiritous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spiritous, vinous, or malt liquor, or otherwise intoxicating, and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine, or beer, excluding any prescription or over-the-counter medicine, any product not fit for human consumption and wine used for sacramental purposes.

*License* means a license or authorization by the Tribal Council for a Permittee to sell Intoxicating Beverages at a designated location.

*Licensed Establishment* means a physical area of Pueblo of Sandia tribal land designated by the Pueblo of Sandia Tribal Council as a licensed establishment for the purpose of selling intoxicating beverages.

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

*Permit* means a permit or license for an Enterprise to sell Intoxicating Beverages.

*Permitted Server* means any individual, whether or not a member of the Pueblo, who is an employee or owner of a Permittee and who is authorized to sell, serve, or dispense intoxicating beverages under such rules and regulations as the Pueblo may adopt. A Permitted Server may not be a minor.

*Permittee* means either: (1) The Pueblo, an Enterprise wholly owned by the Pueblo, or an Enterprise owned in major part and controlled by the Pueblo which is authorized by the Tribal Council to sell and serve intoxicating beverages in a licensed establishment; or (2) any other Enterprise which is licensed by the Tribal Council in accordance with this Ordinance and thereby authorized to sell and serve intoxicating beverages in a licensed establishment.

*Person* means an individual, corporation, limited liability company, partnership, joint venture, association, trust, unincorporated organization or business, government, Indian Tribe, or any agency, instrumentality, or subdivision thereof.

*Pueblo* means the Pueblo of Sandia, a federally-recognized tribe of Indians, located within the exterior boundaries of the State of New Mexico.

*Tribal Council* means the Pueblo of Sandia Tribal Council and will include its duly authorized delegates.

##### Section 3. General

The sale of Intoxicating Beverages shall be lawful within the exterior boundaries of the Pueblo of Sandia and on all other lands of the Pueblo over which the Pueblo has jurisdiction provided that such sale is made in conformance with the laws of the State of New Mexico, to the extent applicable, and is authorized by this Ordinance.

##### Section 4. Sales Allowed

A. Sales of Intoxicating Beverages on Pueblo lands are authorized only if the sale occurs in a Licensed Establishment and is made by a Permittee.

B. Sales of Intoxicating Beverages by a Permittee may be made only by a Permitted Seller.

C. No sale of Intoxicating Beverages shall be made to a person under the age of twenty-one (21).

### Section 5. Permits

#### A. Permittees

1. An Enterprise owned or controlled by the Pueblo which is expressly authorized to sell and serve Intoxicating Beverages by the Tribal Council shall be deemed to be a Permittee without further application.

2. Any other Enterprise which seeks to sell and serve Intoxicating Beverages shall apply for a Permit on such form and pursuant to such rules and regulations as the Pueblo may adopt. The application shall be submitted to the Governor and the Tribal Council, shall be accompanied by the applicable fee, as established from time to time by the Pueblo, and must contain, among other matters, the following information:

(a) the name and address of the Enterprise and, if applicable, the state in which it was incorporated or organized, and a certified copy of its articles of incorporation or organization;

(b) the names and addresses of all officers of the Enterprise and of all Persons owning a five percent (5%) or greater interest in the Enterprise;

(c) a list of every liquor license or permit, by number and state or Indian tribe, in which the Enterprise or any predecessor-in-interest has, or within the past ten (10) years had, directly or indirectly owned or held any interest;

(d) for every Person identified in paragraph (b), two (2) complete sets of fingerprints and 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 law at any time, except that traffic offenses need not be listed;

(e) detail as to whether the enterprise or any Person identified in paragraph (b) either (i) ever applied for a liquor license or permit from any governmental entity, which was denied, and the reasons for such denial, or (ii) held a liquor license or permit which was revoked, and the reasons for such revocation; and

(f) evidence of financial responsibility.

3. Permits shall be issued for a period not to exceed one (1) year, and may be renewable in the discretion of the Pueblo upon the submission of a properly completed renewal application, accompanied by the

applicable license renewal fee, as established from time to time by the Pueblo.

#### B. Permitted Servers

1. Any individual, including individuals employed by the Pueblo, who seeks to become a Permitted Server, shall apply for a permit on such form and pursuant to such rules and regulations as the Pueblo may adopt. The application shall be submitted to the Governor and must contain, among other matters, the following information:

(a) the name and address of the applicant;

(b) a list of all jobs, businesses, and other employment for the immediately preceding five (5) years;

(c) a listing of all residences for the immediately preceding five (5) years, including street address, city, and state, and dates of residence at each different location;

(d) the information required under subsection A-2-(c), (d) and (e) above;

(e) evidence that the individual has taken the requisite alcohol server training program as may be required of individuals selling Intoxicating Beverages under the laws of the State of New Mexico, or agrees to take such course within thirty (30) days of his or her employment.

2. Server permits, unless sooner revoked, shall be issued for a period of up to five (5) years from the date that the Permitted Server has completed an alcohol server training program.

#### C. Fingerprint Procedures

1. The Pueblo may require two sets of fingerprints from any or all of the individuals identified in subsections 5.A and 5.B. above.

2. All applicants to become Permittees and any other individual required to submit fingerprints hereunder must 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 on the application, the individual concerned will be given an opportunity to explain the circumstance of such omission or challenge the authenticity of the revealed information.

3. Any costs associated with supplying the complete sets of fingerprints and the investigation thereafter will be borne exclusively by the Permittee.

### Section 6. Licensed Establishments

A. Sales and serving of Intoxicating Beverages may occur only in a Licensed Establishment.

B. Each Licensed Establishment shall be identified by a map showing its location and the perimeters of the land and building, together with a general description of the premises, which map and description shall be filed with the Pueblo. A parcel of land not containing a building, so long as the perimeters thereof are defined, may be a Licensed Establishment, including but not limited to areas within a golf course, including adjacent facilities utilized in connection with the golf course.

C. An Enterprise which is not owned or controlled by the Pueblo must apply to the Tribal Council for a License to operate a Licensed Establishment on such form and in such a manner as the Pueblo may prescribe. The premises upon which the Enterprise applies to operate shall not be deemed a Licensed Establishment unless and until such License is granted. Unless sooner terminated in accordance with this Ordinance, each License shall be for a maximum period of three (3) years.

D. An Enterprise which is owned or controlled by the Pueblo shall be deemed to have a Licensed Establishment upon filing the map and description required under subsection (b) pursuant to express authorization of the Tribal Council.

E. 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 by the package and/or by the drink.

### Section 7. Permit and License Approvals and Denials

A. The granting, denial or renewal of a Permit or License shall be within the discretion of the Pueblo of Sandia Tribal Council.

B. The License for a Licensed Establishment or the permit for a Permittee or any Permitted Server may be terminated or revoked for cause. Cause shall include:

1. Violation of this Ordinance or the laws of the State of New Mexico;

2. Violation of any rules and regulations adopted by the Pueblo to implement this Ordinance;

3. Sale of Intoxicating Beverages outside a Licensed Establishment or in violation of its Permit or License;

4. Conviction of a Permitted Server, a Permittee, or of any individual described in subsection 5.A-2-(b) of a felony or of a misdemeanor involving a violation of any alcoholic beverage law;

5. Making a material misstatement in the application for a Permit; and  
 6. Allowing a nuisance, drug sales or rowdy behavior to occur within the Licensed Establishment.

C. Revocation of a Permit will occur only following an opportunity for a hearing before the Tribal Council or its authorized delegee. Decisions of the Tribal Council or its authorized delegee shall be final and not subject to further review.

D. No transfer or assignment of a Permit shall be made without the approval in writing of the Tribal Council.

E. Notwithstanding any other provision of this Ordinance, a Permit issued hereunder shall not be deemed a property right or vested right of any kind, nor shall the granting of any Permit give rise to a presumption or legal entitlement to the renewal of such Permit.

### **Section 8. Prohibited Sales and Practices**

A. No Permittee or Permitted Server shall:

1. Sell, serve, or dispense Intoxicating Beverages to any person who is obviously intoxicated;
2. Award Intoxicating Beverages as prizes;
3. Sell Intoxicating Beverages at a drive-up or walk-up window;
4. Sell Intoxicating Beverages to a minor;
5. Knowingly sell Intoxicating Beverages to an adult purchasing such liquor on behalf of a minor or an Intoxicated Person; or
6. Allow a person to bring Intoxicating Beverages onto the premises of a Licensed Establishment for the purposes of consuming them himself, or providing them to other individuals.

### **Section 9. Enforcement**

#### **A. Criminal Penalties**

1. A Permittee or Permitted Server who is subject to the criminal jurisdiction of the Pueblo and is found guilty of violating any portion of this Ordinance shall have his/her/its Permit immediately revoked subject to reinstatement after a hearing pursuant to subsection 6.D.3, and such individual shall be subject to a fine not to exceed \$500.00 for each violation.

2. Any person subject to the criminal jurisdiction of the Pueblo who is found guilty of purchasing Intoxicating Beverages on behalf of a minor or an intoxicated person shall be subject to a fine not to exceed \$500.00 for each violation or not to exceed one (1) month in jail.

3. Any minor subject to the criminal jurisdiction of the Pueblo purchasing, attempting to purchase or found in possession of Intoxicating Beverages shall be subject to a fine not to exceed \$500.00 for each violation.

4. Any person subject to the criminal jurisdiction of the Pueblo who is found guilty of having made any materially false statement or concealed any material facts in his/her application for a Permit granted pursuant to the provisions of this Ordinance shall be immediately discharged from employment and shall be subject to a fine not to exceed \$500.00 for each violation.

#### **B. Civil Penalties**

1. Any non-member Permittee violating any provision of this Ordinance or regulations promulgated hereunder may be subject to revocation of its Permit and such other civil sanctions as are provided in rules and regulations implementing this Ordinance.

2. Any Permitted Server who is not a member of the Pueblo and who violates any provision of this Ordinance or regulations promulgated hereunder may be subject to revocation of his/her Permit as well as immediate termination of his/her employment.

3. Any non-member of the Pueblo who purchases Intoxicating Beverages on behalf of a minor or an Intoxicated Person shall be subject to exclusion from Pueblo lands.

### **Section 10. 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, and will be submitted for Secretarial review where required by federal law.

### **Section 11. Amendment**

This Ordinance amends and supplements the prior Liquor Ordinance of the Pueblo of Sandia, enacted and certified on March 13, 1958 (23 FR 1742). This amendment shall be effective upon publication in the **Federal Register**.

### **Section 12. Severability**

In the event any provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, all other provisions shall not be affected and shall remain in full force and effect.

### **Section 13. Sovereign Immunity**

The sovereign immunity of the Pueblo of Sandia shall not be waived by this Ordinance.

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## **DEPARTMENT OF THE INTERIOR**

### **Bureau of Land Management**

[CA-660-1430-ER-CACA-8974]

#### **Proposed California Desert Conservation Area Plan Amendment and Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) for the Imperial Irrigation District's Proposed New 230-kV "BN-BS" Transmission Line Project, California**

**AGENCY:** Bureau of Land Management (BLM) and the Imperial Irrigation District (IID), Interior

**ACTION:** Notice of Intent to prepare a California Desert Conservation Area (CDCA) Plan Amendment and joint EIS/EIR addressing a proposed 230-kV transmission line project.

**SUMMARY:** In compliance with regulations at 40 CFR 1501.7 and 43 CFR 1610.2, notice is hereby given that the BLM, together with the IID, propose to prepare an amendment to the California Desert Conservation Area (CDCA) Plan and to direct the preparation of a joint EIS/EIR for the IID's proposed 230 kilovolt (kV) "BN-BS" Transmission Line Project. The BLM is the lead Federal agency for the preparation of this EIS/EIR in compliance with the requirements of the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) regulation for implementing NEPA (40 Code of Federal Regulations [CFR] 1500-1508), and the Department of the Interior's manual guidance on NEPA; and the IID is the lead State of California agency for the preparation of this EIS/EIR in compliance with the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.), and implementing guidelines [California Code of Regulations [CCR] Title 14, section 15000 et seq.], and IID's Rules and Regulations to Implement CEQA. This notice initiates the public participation process for planning, initiates public scoping for the EIS and also serves as an invitation for other cooperating agencies. Potential cooperating agencies include the U.S. Fish and Wildlife Service, Western Area Power Administration, the Department of