

B. Misrepresentation of age by a minor is a violation and subject to the provisions of Title Three, Chapter 4 (Juvenile Offender Procedure).

#### **TITLE FOUR, CHAPTER 6, GOVERNING CONTRABAND.**

##### **SECTION FOUR.6.2 DECLARATION OF CONTRABAND.**

The following things and substances are hereby declared to be contraband and their manufacture, possession, sale, or use within the Annette Islands Reserve is hereby declared to be illegal:

A. Electronic decoder for radio messages.

B. Electronic radar detector.

C. Any other electronic device used to detect or interfere with any electromagnetic signal generated by the Metlakatla Police Department in its law enforcement activities or by any other governmental or law enforcement agency authorized to operate on the Annette Islands Reserve.

D. Marijuana or any other dangerous drug or narcotic the use or possession of which violates the Law & Order Code of the Metlakatla Indian Community or any Federal law relating to controlled substances, unless such use or possession is legal under the laws of the State of Alaska and is solely for medical purposes.

E. Any device, substance, airplane, boat, including fishing vessels, motor vehicle, or thing of any kind whatsoever used in connection with violating the Law & Order Code of the Metlakatla Indian Community, including all ordinances or any resolutions and orders of the Metlakatla Indian Community Council or the Magistrate's Court of the Metlakatla Indian Community.

F. The species of dog known as a Pit Bull or Pit Bull Terrier or other vicious animal.

G. Firearms of destructive devices possessed in violation of Section Four.5.2.

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#### **DEPARTMENT OF THE INTERIOR**

##### **Bureau of Indian Affairs**

##### **Pueblo of Isleta Liquor Sales Ordinance**

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

**ACTION:** Notice.

**SUMMARY:** This notice publishes the Amended and Restated Pueblo of Isleta Liquor Sales Ordinance. The amended

Ordinance regulates and controls the possession, sale and consumption of liquor within the Pueblo of Isleta lands. The Pueblo of Isleta is located on trust land and this amended Ordinance allows for the possession and sale of alcoholic beverages within the exterior boundaries of the Pueblo of Isleta. This amended Ordinance will increase the ability of the tribal government to control the distribution and possession of liquor within their reservation and at the same time will provide an important source of revenue and strengthening of the tribal government and the delivery of tribal services.

**DATES:** *Effective Date:* This Ordinance is effective as of September 12, 2008.

**FOR FURTHER INFORMATION CONTACT:** Iris A. Drew, Division of Tribal Government, Office of Indian Services, 1001 Indian School Road, Albuquerque, New Mexico 87104; Telephone (505) 563-3530; Fax (505) 563-3060; or Elizabeth Colliflower, Office of Indian Services, 1849 C Street, NW., Mail Stop 4513-MIB, Washington, DC 20240; Telephone (202) 513-7627; Fax (202) 208-5113.

**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 Tribal Council of the Pueblo of Isleta adopted this amended Liquor Sales Ordinance on October 4, 2007. The purpose of this amended Ordinance is to govern the sale, possession and distribution of alcohol within the lands held by the Pueblo of Isleta. This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I approve this ordinance and certify that this Amended and Restated Liquor Sales Ordinance of the Pueblo of Isleta was duly adopted by the Tribal Council on October 4, 2007.

Dated: July 31, 2008.

**George T. Skibine,**

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

The Pueblo of Isleta's Amended and restated Liquor Sales Ordinance reads as follows:

#### **PUEBLO OF ISLETA**

##### **LIQUOR SALES ORDINANCE**

(Current as of October 4, 2007)

Be it ordained and enacted by the Pueblo of Isleta as follows:

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

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

**B. Authority.** This ordinance is being passed and enacted in accordance with the inherent governmental powers of the Pueblo of Isleta, a federally recognized tribe of Indians, and specifically under Article V, Section 2(e) of the Pueblo of Isleta Constitution, 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 Isleta.

#### **Section 2. Definitions.**

**"Enterprise"** means a Person engaged in, or desiring to engage in, the business of selling Intoxicating Beverages.

**"Governor"** means the Governor of the Pueblo of Isleta or his designee.

**"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, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, 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 an Enterprise to sell Intoxicating Beverages at a designated location.

**"Licensed Establishment"** means (1) a physical area of Pueblo of Isleta tribal land, excluding lands which have been assigned to an individual tribal member, or (2) a certain space or area within a building on Pueblo of Isleta tribal lands (which have not been assigned to an individual tribal member), designated by the Pueblo of Isleta Tribal Council as a place where Intoxicating Beverages can be sold. A Licensed Establishment may be a designated area, such as golf course or an amphitheater.

**"Licensee"** means an Enterprise which holds a Pueblo of Isleta Liquor License and is authorized by the Tribal Council to sell and serve Intoxicating Beverages in a Licensed Establishment.

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

**“Permitted Server”** means any individual who is an owner or employee of a Licensee 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.

**“Person”** means an individual, corporation, limited liability company, partnership, joint venture, association, trust unincorporated organization or business, government, Indian Tribe (including the Pueblo and its Enterprises), or any agency, instrumentality, or subdivision thereof.

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

**“Server Permit”** means a permit to serve Intoxicating Beverages issued to a Permitted Server.

**“Tribal Council”** means the Pueblo of Isleta Tribal Council.

### Section 3. General.

The sale of Intoxicating Beverages shall be lawful within the exterior boundaries of the Pueblo of Isleta 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 owned or operated by a Licensee.

**B.** Sales of Intoxicating Beverages at a Licensed Establishment may be made only by a Permitted Server.

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

### Section 5. Licenses.

#### A. Licensees.

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

2. Any other Enterprise which seeks to sell and serve Intoxicating Beverages shall apply for a License 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, accompanied by the applicable fee as established from time to time by the Pueblo, and must contain, among other matter, 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 part ten (10) years had, directly or indirectly owned or held any interest;

(d) for every natural 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 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. Licenses 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 an individual employed by the Pueblo, who seeks to become a Permitted Server, shall apply for a Server 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 residence 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 (3) 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 Licensees 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 cost associated with supplying the complete sets of fingerprints and the investigation thereafter will be borne exclusively by the Licensee or Permitted Server applicant.

### 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/or building, or portion thereof, 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 complex), an amphitheater, or an area(s) adjacent to the Isleta Casino & Resort complex (such as outdoor cafes and special event tents).

**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.

**D.** An Enterprise which is owned or controlled by the Pueblo and which has

been authorized by the Tribal Council to sell Intoxicating Beverages shall be deemed to have a Licensed Establishment upon filing the map and description required under Subsection 6.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 shall be specifically designated as to whether it is permitted to sell Intoxicating Beverages by the package and/or by the drink.

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

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

B. A License or a Server Permit may be terminated or revoked for cause. Cause shall include:

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

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

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

4. the conviction of a Licensee, a Permitted Server, 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; a material misstatement in the application for a License or Server Permit; and

6. allowing a nuisance, drug sales, or rowdy behavior within the Licensed Establishment.

C. Revocation of a License or Server 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 License shall be made without the approval in writing of the Tribal Council.

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

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

A. No Licensee 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 Licensee or Permitted Server who is subject to the jurisdiction of the Pueblo and is found guilty of violating any portion of this Ordinance, or is found guilty of having made any materially false statement or concealed any material facts in his/her application for a License or Server Permit granted pursuant to the provisions of this Ordinance, shall have his/her/its License or Server Permit immediately revoked subject to reinstatement after a hearing pursuant to subsection 7.C, and such individual shall be subject to a fine not to exceed \$500.00 for each violation.

2. Any person subject to the 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, or both.

3. Any Minor subject to the 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.

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

1. Any non-member Licensee violating any provision of this Ordinance or regulations promulgated hereunder shall be subject to his/her/its License being revoked, as well as immediate termination of any contract with the Pueblo, and to 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 Server 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.

#### **Section 11. Amendment.**

This Ordinance amends and supplements the prior Liquor Ordinance of the Pueblo of Islet, enacted in 1958. This amendment shall be effective upon the final approval of this Ordinance by the Secretary of the Interior or his designated representative.

#### **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 Isleta shall not be waived by this Ordinance.

#### **CERTIFICATION**

The foregoing Amended and Restated Pueblo of Isleta Liquor Sales Ordinance was ordained and enacted at a duly called meeting of the Tribal Council of the Pueblo of Isleta, held on the *4th day of October, 2007*, at which a quorum was present, with *10* voting for, *0* opposing, and *0* abstaining.

/s/ \_\_\_\_\_

Governor

/s/ \_\_\_\_\_

President, Tribal Council

Atest:

/s/ \_\_\_\_\_

Tribal Council Secretary

[FR Doc. E8-18775 Filed 8-12-08; 8:45 am]

BILLING CODE 4310-4J-P

#### **DEPARTMENT OF THE INTERIOR**

##### **Bureau of Indian Affairs**

##### **Pueblo of San Felipe Liquor Control Ordinance**

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

**ACTION:** Notice.

**SUMMARY:** This notice publishes the Pueblo of San Felipe Liquor Control Ordinance. The Ordinance regulates and