

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

controls the possession, sale and consumption of liquor within the Pueblo of San Felipe lands. The Pueblo of San Felipe is located on trust land and this Ordinance allows for the possession and sale of alcoholic beverages within the exterior boundaries of the Pueblo of San Felipe. This 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 August 13, 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 San Felipe adopted this Liquor Ordinance on April 14, 2008. The purpose of this Ordinance is to govern the sale, possession, and distribution of alcohol within the lands held by the Pueblo of San Felipe. 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 Liquor Sales Ordinance of the Pueblo of San Felipe was duly adopted by the Tribal Council on April 14, 2008.

Dated: July 31, 2008.

**George Skibine,**

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

**The Pueblo of San Felipe's Liquor Control Ordinance reads as follows:**

**PUEBLO OF SAN FELIPE LIQUOR CONTROL ORDINANCE**

**Adopted by Resolution No. 2008-86 on April 14, 2008**

**I. TITLE AND PURPOSE.**

The title of this ordinance is the Pueblo of San Felipe Liquor Control

Ordinance (Liquor Ordinance). The purpose of this Liquor Ordinance is to standardize procedures for the regulation and control of the sale and consumption of liquor on the Reservation.

**II. AUTHORITY.**

The Pueblo enacts this Liquor Ordinance pursuant to its inherent governmental powers and in accordance with its traditional law, which empowers its Tribal Council to enact ordinances. This Liquor Ordinance conforms with and also has been enacted pursuant to the Act of August 15, 1953 (Pub. L. No. 83-277, 67 Stat. 586, 18 U.S.C. § 1161). The Sale of Liquor shall be lawful within the Reservation if such Sale complies with this Liquor Ordinance and, to the extent required by Federal law, applicable laws of the State of New Mexico.

**III. DEFINITIONS.**

Except as otherwise provided herein, the following definitions apply throughout this Liquor Ordinance:

**A. "Certified Server"** means any employee of a Liquor Licensee who is twenty-one (21) years of age or older, certified to Sell Liquor on the Reservation in accordance with this Liquor Ordinance, has successfully completed a Liquor server training program approved by the Tribal Council, and is certified as having completed such course by the entity providing the training program or by the Tribal Council;

**B. "Commission"** means the Pueblo of San Felipe Liquor Control Commission;

**C. "Enterprise"** means a business wholly-owned by the Pueblo that is engaged in, or desires to engage in, the business of Selling Liquor on the Reservation;

**D. "Governor"** means the Governor of the Pueblo or his designee;

**E. "Licensed Liquor Establishment"** means a designated physical location within the Reservation from which a Liquor Licensee is authorized to Sell Liquor under the provisions of the Liquor License granted by the Tribal Council in accordance with this Liquor Ordinance;

**F. "Liquor"** means distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin, and aromatic bitters bearing the Federal internal revenue strip stamps or any similar alcoholic beverage, including blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half percent alcohol, but excluding medicinal bitters. "Liquor" includes "beer" and any other alcoholic beverage created by the

fermentation of any infusion or decoction of barley, malt, and hops, or other cereals in water, and includes porter, beer, ale, and "wine," which means alcoholic beverages obtained by the fermentation of natural sugar contained in fruit or other agricultural products, with or without the addition of sugar or other products that do not contain less than one-half percent (0.5%) nor more than twenty-one percent (21%) alcohol by volume;

**G. "Liquor License"** means a revocable license granted by the Tribal Council authorizing the Liquor Licensee named therein to Sell Liquor at a specified Licensed Liquor Establishment on the Reservation;

**H. "Liquor Licensee"** means the holder of a valid Liquor License allowing the Sale of Liquor in a designated Licensed Liquor Establishment, as authorized and granted by the Tribal Council; provided that a "Liquor Licensee" may be any eligible Person or the Pueblo, including any department, agency, or Enterprise thereof;

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

**J. "Package Sale"** means those Sales of Liquor in containers filled or packed by a manufacturer or wine bottler Sold by a Liquor Licensee in an unbroken package for consumption off the Licensed Liquor Establishment premises and not for resale;

**K. "Person"** means an individual, trust, firm, association, partnership, political subdivision, tribal or other government agency, municipality, industry, public or private corporation, or any other entity whatsoever;

**L. "Public Place"** means gaming, eating, and commercial or community facilities of every nature that are open to and/or are generally used by the public; public conveyances of all kinds and character; and all other places of like or similar nature to which the general public has been invited, and that generally are used by the public;

**M. "Pueblo"** means the Pueblo of San Felipe;

**N. "Reservation"** means all lands within the exterior boundaries of the Pueblo's territories, all lands owned by the Pueblo subject to Federal restrictions on alienation, and all other lands that are now or may hereafter be held in trust for the benefit of the Pueblo, or held by the Pueblo subject to restrictions against alienation, whether by purchase, gift, act of Congress, or otherwise;

**O. "Sale"** or "Sell" means the exchange, barter, traffic, donation, with or without consideration, in addition to

the selling, supplying, serving for consumption, dispensing, delivering, or distributing, by any means whatsoever, of Liquor by any Person or the Pueblo, including any tribal department, agency, or Enterprise, to any Person or the Pueblo, including any tribal department, agency, or Enterprise thereof;

**P.** "Tax Commission" means the Tax Commission of the Pueblo of San Felipe or such other tribal commission, official, council, or agency designated by the Tribal Council to carry out the duties of the Tax Commission hereunder;

**Q.** "Tribal Council" means the Pueblo of San Felipe Tribal Council;

**R.** "Tribal Courts" means any or all of the courts established by the Pueblo to enforce Pueblo law;

**S.** "Wholesaler" means a person whose place of business is located off the Reservation and who Sells, or possesses for the purpose of Sale, any Liquor for resale by a Liquor Licensee;

**T.** "Wholesaler License" means a revocable license granted by the Tribal Council authorizing the Wholesaler named therein to do business on the Reservation with a Liquor Licensee; and

**U.** "Wholesaler Licensee" means the holder of a valid Wholesaler License.

#### **IV. POWERS OF THE TRIBAL COUNCIL.**

In furtherance of this Liquor Ordinance, the Tribal Council shall have the following powers and duties:

**A.** To publish and enforce such rules and regulations governing the Sale and consumption of Liquor at Licensed Liquor Establishments and in Public Places on the Reservation as the Tribal Council deems necessary and appropriate;

**B.** To employ accountants, personnel, inspectors, and such other Persons as shall be reasonably necessary to allow the Tribal Council and Commission to perform their functions under this Liquor Ordinance;

**C.** To authorize, license, restrict, and prohibit, if necessary, the Sale of Liquor on the Reservation, including but not limited to Sales by all Persons, as well as by any tribal department, agency, or Enterprise of the Pueblo;

**D.** To establish a Commission with such delegated powers and responsibilities as are set forth in this Ordinance; **E.** To bring suit in the San Felipe Tribal Court to enforce this Liquor Ordinance;

**F.** To determine violations of this Liquor Ordinance; and

**G.** To exercise such other powers as may be necessary to implement this Liquor Ordinance and accomplish its purposes.

#### **V. LIQUOR CONTROL COMMISSION.**

**A. Establishment.** There is hereby established the Pueblo of San Felipe Liquor Control Commission.

##### **B. Composition; Qualifications.**

1. The Commission shall consist of three (3) members appointed by the Tribal Council.

2. All Commissioners shall be members of the Pueblo.

3. No more than one Commissioner may be a member of the San Felipe Tribal Council. No Commissioner who is a member of the Tribal Council may vote in the Tribal Council on any licensing or other decision recommended to the Tribal Council by the Commission.

4. No person shall be eligible or qualified to serve, or continue to serve, as a Commissioner who:

- a. Has been convicted of a felony; or
- b. Is an employee of or has any financial interest in any Licensee or applicant for a Liquor License.

**C. Powers and Duties of the Commission.** The Commission shall have the following powers and duties:

1. To receive and investigate all applications for licenses under this Ordinance;

2. To inspect the premises and have access to all books and records of Licensees to monitor and assure compliance with this Ordinance;

3. To investigate all reported or suspected violations of this Ordinance;

4. To enforce this Ordinance and to recommend to the Tribal Council decisions and other actions on license applications, suspension or revocation of licenses, assessment of civil penalties, filing of judicial proceedings, and any and all other actions the Tribal Council may take under this Ordinance;

5. To hold such hearings, sit and act at such times and places, take testimony, and receive such evidence as the Commission deems relevant in fulfilling its duties;

6. To keep minutes, records, and books in which shall be kept a true, faithful, and correct record of all proceedings of the Commission;

7. To recommend to the Tribal Council such regulations and fee schedules as the Commission believes are necessary and appropriate to implement and enforce this Ordinance;

##### **D. Terms; Compensation; Meetings.**

1. Each Commissioner shall serve for a three (3) year term.

2. Upon adoption of this Ordinance, one Commissioner shall be appointed for a one-year term, one Commissioner shall be appointed for a two-year term, and one Commissioner shall be appointed for a three-year term.

Thereafter, all Commissioners shall be appointed for full three-year terms. A Commissioner whose term has expired shall serve until his or her replacement is appointed.

3. Service as a Commissioner shall not be a full-time position. Commissioners shall meet on a monthly basis or more frequently from time to time as may be needed.

4. Commissioners shall be paid a stipend in such amount and at such frequency as shall be determined by the Tribal Council.

**E. Termination of Commissioners.** A Commissioner may be terminated by the Tribal Council only for cause and only in accordance with the following procedures:

1. Termination of a Commissioner shall be initiated by the Governor with written notice to the Commissioner and the Tribal Council, specifying the cause for termination.

2. The cause for termination shall be limited to:

a. conviction in any court of a felony, of a liquor- or drug-related crime within the last three (3) years, or of a crime involving dishonesty;

b. failure to meet or maintain the qualifications for Commissioners set forth herein;

c. gross neglect of duty; or

d. malfeasance in office, or conduct which amounts to gross and intentional disregard of the laws and procedures applicable to the affairs of the Commission.

#### **VI. AUTHORIZED LIQUOR SALES AND PRACTICES.**

##### **A. Generally.**

1. It shall be unlawful to possess Liquor anywhere on the Reservation, including within private homes, except as authorized by this Liquor Ordinance.

2. Except as otherwise provided herein, Liquor Licensees may Sell Liquor on the Reservation at Licensed Liquor Establishments during all hours allowed for Liquor Sales by Pueblo and State of New Mexico law; provided that the Tribal Council may impose more stringent hours of operation upon a Licensed Liquor Establishment on a case-by-case basis.

**B. Sales on Sundays and Election Days.** Except as otherwise limited by the Tribal Council, the Sale of Liquor shall be allowed on Sunday and on any Pueblo, Federal, or State of New Mexico election day to the same extent authorized by the State of New Mexico.

**C. Sales Only by Certified Servers.** All Liquor Sales on the Reservation authorized by this Liquor Ordinance shall be made only by Certified Servers. Upon the request of the Governor, the

Tribal Council, or the Commission, a Liquor Licensee shall submit proof that all its employees Selling Liquor on the Reservation are Certified Servers.

**D. Liquor Sales at Gaming Facility.**

Any Sale of Liquor at a gaming facility shall comply with all applicable provisions of any Tribal-State Class III gaming compact between the Pueblo of San Felipe and the State of New Mexico, as it now exists or hereafter may be amended.

**E. Wholesale Liquor Transactions.**

A Liquor Licensee shall purchase Liquor for resale at a Licensed Liquor Establishment on the Reservation only from a Wholesaler possessing a valid Wholesaler License issued by the Tribal Council. A Wholesaler Licensee shall Sell Liquor for resale at a Licensed Liquor Establishment on the Reservation only to holders of valid Liquor Licenses issued by the Tribal Council; provided that such Sales are otherwise in conformity with this Liquor Ordinance and applicable laws of the State of New Mexico.

**VII. PROHIBITED LIQUOR SALES AND PRACTICES.**

**A. Resale.** No Liquor Licensee shall Sell Liquor on the Reservation for resale; all such Sales shall be for the personal use of the purchaser.

**B. Bringing Liquor Onto Licensed Liquor Establishment Premises.** No Person shall bring any Liquor for personal consumption onto any Licensed Liquor Establishment premises where Liquor is authorized to be Sold by the drink, unless such Liquor was purchased on such premises, or unless the possession or distribution of such Liquor on such premises is otherwise authorized under the provisions of this Liquor Ordinance.

**C. No Sales to Minors.** No Person shall Sell Liquor on the Reservation to a Minor. It shall be a defense to an alleged violation of this Section that the purchaser presented to the Seller of the Liquor an apparently valid identification document showing the purchaser's age to be twenty-one (21) years or older.

**D. No Sales to Intoxicated Persons.** No Person shall Sell Liquor on the Reservation to a Person believed to be intoxicated.

**E. Sales Must Be Made by Adults.** No Person shall take any order, make any delivery, or accept payment for any Sale of Liquor within the Reservation, or otherwise have any direct involvement in any such Sale, who is less than twenty-one (21) years of age.

**F. Payment at Time of Sale.** A Licensed Liquor Establishment shall not make any Sale of any Liquor without

receiving payment therefor by cash, check, or credit card at or about the time the Sale is made; provided that nothing herein shall preclude the Licensed Liquor Establishment from receiving a delivery of Liquor from a duly authorized Wholesaler if arrangements have been made to pay for such delivery at a different time; and provided further that nothing herein shall preclude the Licensed Liquor Establishment from allowing a customer to purchase more than one item in sequence, and to pay for all such purchases at the conclusion thereof, so long as payment is made in full before the customer leaves the premises; and provided further that nothing herein shall prevent the Licensed Liquor Establishment from distributing Liquor to customers without charge, so long as such distribution is not otherwise in violation of any provision of this Liquor Ordinance or tribal-state class III gaming compact between the Pueblo of San Felipe and the State of New Mexico, as it now exists or hereafter may be amended.

**G. Open Containers Prohibited.** No Person shall have an open container of any Liquor in a Public Place, other than on the premises of a Licensed Liquor Establishment, or in any automobile, whether moving or standing still. This Section shall not apply to empty containers such as aluminum cans or glass bottles collected for recycling.

**H. Other Prohibitions on Hours and Days of Sale.** The Tribal Council may, by duly enacted resolution, establish other days on which, or times at which, sales or consumption of Liquor is not permitted within the Reservation. The Tribal Council shall give prompt notice of any such enactment to all Wholesaler Licensees, Liquor Licensees, and Licensed Liquor Establishments doing business within the Reservation.

**VIII. LICENSING.**

**A. Liquor Licenses for Licensed Liquor Establishments.**

1. General Eligibility; Applications.  
a. The Pueblo is hereby deemed eligible to be a Liquor Licensee without further application under this Liquor Ordinance except as such licensing pertains to the designation of the Licensed Liquor Establishment itself, provided that any Enterprise of the Pueblo must apply for a Liquor License in the same manner and the same extent as any other applicant for a Liquor License. If the applicant is an Enterprise of the Pueblo, the Enterprise shall be the named Liquor Licensee.

b. Any other Person that wants to Sell Liquor on the Reservation must demonstrate eligibility and apply to

become a Liquor Licensee on the application forms, accompanied by the fee, and in the manner prescribed by the Tribal Council. No Person currently employed by the Pueblo or an Enterprise of the Pueblo is eligible to be a Liquor Licensee. Any individual applying for a Liquor License shall be at least twenty-one (21) years of age, and not have been convicted of a Liquor-related misdemeanor within the last five (5) years or of a felony at any time. If such Person is a corporation, partnership, or other business entity, the manager of the proposed Licensed Liquor Establishment shall be an individual at least twenty-one (21) years of age, who has not been convicted of a Liquor-related misdemeanor within the last five (5) years or of a felony at any time. The Tribal Council may require that an applicant for a Liquor License submit to a background investigation by filing with the application two (2) complete sets of his or her fingerprints taken under the supervision of and certified by a Pueblo, state, or federal law enforcement officer. In such a case, the Tribal Council may issue a temporary Liquor License pending the results of the background clearance, subject to revocation at any time.

2. Licensed Liquor Establishments.

a. In its application for a Liquor License, the applicant shall request that the Tribal Council designate and license a specific location on the Reservation where the Liquor Licensee is authorized to Sell Liquor. The applicant shall, at a minimum, submit a map showing the location of the proposed site and the perimeters of the land and building, together with a general description of the premises. A parcel of land not containing a building may be a Licensed Liquor Establishment, including but not limited to areas within and adjacent to a racetrack and/or golf course. The applicant shall submit such request on the forms and in the manner prescribed by the Commission.

b. No Licensed Liquor Establishment shall be located closer than three hundred (300) feet from any church, kiva, plaza, or school.

c. The Tribal Council, in its discretion, may place terms, conditions, and/or restrictions on the Sale of Liquor at a Licensed Liquor Establishment, including but not limited to the hours and days of operation and the type of Liquor Sold; provided that a Liquor Licensee may appeal the imposition of any special restrictions as provided in Article X of this Liquor Ordinance.

3. Evaluation of and Decision on Applications.

a. All applications, together with the applicable fee, shall be submitted to the Commission, which shall gather and review all necessary information. Based on its review, the Commission shall forward the information to the Tribal Council with a recommended decision.

b. After considering the information submitted on the application for a Liquor License and the recommendation of the Commission, the Tribal Council shall grant and issue a Liquor License if it concludes that the Liquor License will serve the best interests of the Pueblo and the regulatory goals of this Liquor Ordinance.

c. The Tribal Council shall deny the application if it finds that granting a Liquor License would be contrary to the best interests of the Pueblo and the regulatory goals of this Liquor Ordinance.

d. In making their recommended and final determinations, the Commission and the Tribal Council shall consider such factors as the applicant's compliance history with applicable Pueblo and federal law, whether the applicant is currently in violation of any Pueblo law, the number and density of Licensed Liquor Establishments on the Reservation, whether the applicant will operate a new or existing establishment, whether food will be sold on the premises, or any other reason bearing on the health, safety, and welfare of the Reservation community or the economic security of the Pueblo.

e. The Tribal Council shall send the applicant a final written decision explaining the grounds for its decision either granting or denying the application for a Liquor License.

#### 4. Liquor License Term; Renewal.

a. Except as otherwise determined by the Tribal Council, the term of a Liquor License shall be three (3) years.

b. Notwithstanding the three-year term, every Liquor Licensee shall pay an annual licensing fee to be determined by the Commission subject to the approval of the Tribal Council.

c. An application for a renewal of a Liquor License may be made not more than ninety (90), nor less than sixty (60) days prior to the expiration of the Liquor License, made on such forms as prescribed by the Commission, and shall be accompanied by any required fees. Denial of an application for renewal of a Liquor License is appealable as provided in this Liquor Ordinance.

5. Liabilities of Liquor Licensee. Except as otherwise provided herein, each Liquor Licensee shall be accountable for all violations of the Liquor License and this Liquor Ordinance and for all taxes, fees, and

penalties that may be charged against the Liquor License or Licensed Liquor Establishment.

**B. Classes of Liquor Licenses.** The Tribal Council may establish by regulation classes of Liquor Licenses and the activities authorized with each class, including but not limited to restaurants, bars, and Package Sales.

**C. Transfer, Assignment, or Lease of Liquor License.** No Liquor Licensee shall transfer, assign, or lease a Liquor License without the prior written approval of the Tribal Council. Applications for the transfer, assignment, or lease of a Liquor License shall be submitted to the Commission, which shall conduct any applicable investigation and make its recommendation to the Tribal Council. **Liquor Licenses issued hereunder shall not be deemed a property right or vested right of any kind, nor shall the granting of any Liquor License give rise to a presumption or legal entitlement to a renewal thereof.**

#### **D. Special Events Liquor Permits.**

Upon request, the Tribal Council may in its discretion issue Special Events Liquor Permits authorizing specific Sales of Liquor for specific time periods not to exceed one (1) week, on such terms as may be recommended by the Commission and established by the Tribal Council; provided that an applicant for a Special Events Liquor Permit must be at least twenty-one (21) years of age and not have been convicted of a Liquor-related misdemeanor within the last five (5) years or of a felony at any time. Applications for a Special Events Permit shall be submitted to the Commission, which shall conduct any applicable investigation and make its recommendation to the Tribal Council.

**E. Wholesaler-Wholesaler License Required.** No Wholesaler shall Sell, offer for Sale, or ship Liquor to a Liquor Licensee for resale at a Licensed Liquor Establishment on the Reservation except with a Wholesaler License. A Wholesaler shall apply for a Wholesaler License on such forms, accompanied by such fee, and in such manner as may be prescribed by the Commission. Applications for a Wholesaler License shall be submitted to the Commission, which shall conduct any applicable investigation and make its recommendation to the Tribal Council.

#### **F. Suspension and Revocation of Liquor License or Wholesaler License.**

The Tribal Council, upon the recommendation of the Commission, may suspend or revoke any Liquor License or Wholesaler License issued under this Section on the following grounds:

1. Violation of any provision of this Liquor Ordinance or any regulations promulgated hereunder or of the Liquor laws of the State of New Mexico;

2. Violation of any Pueblo law;

3. Violation of the terms, conditions, and scope of a Liquor License or Wholesaler License and/or otherwise Selling Liquor in violation of a Liquor License or Wholesaler License;

4. Making a material misstatement on the application for a Liquor License or Wholesaler License;

5. Being convicted, while holding a Liquor License or Wholesaler License, of a misdemeanor involving a violation of a Liquor law or a felony;

6. Allowing the repeated or continuing occurrence of conduct that constitutes a nuisance or dangerous behavior within the Licensed Liquor Establishment or on its premises;

7. Within the Licensed Liquor Establishment or on its premises, allowing the sale, possession, purchase, manufacture, or transfer of drug-related paraphernalia, prohibited drugs, or other controlled substances, except for the possession of controlled substances for which the person in possession has a valid prescription; provided that, for purposes of this Liquor Ordinance, "prohibited drug" means any substance the sale, possession, purchase, manufacture, or transfer of which is prohibited by federal, state, or Pueblo criminal drug provisions, and which has not been obtained by its possessor pursuant to a valid prescription, and "controlled substance" includes all prohibited drugs; and

8. Any other good cause shown.

**G. Notice of Intent to Revoke or Suspend a Liquor License or Wholesaler License or to Impose Special Restrictions.** The Commission shall provide written notice of intent to revoke or suspend a Liquor License or Wholesaler License or to impose special restrictions for a violation of this Liquor Ordinance. Such notice shall be given by certified mail, return receipt requested, to the last known address of the Liquor Licensee or Wholesaler Licensee in the Pueblo's records. If the Liquor Licensee or Wholesaler Licensee cannot be so served with notice, the Liquor Licensee or Wholesaler Licensee may be served by publication in a newspaper of general circulation in the area once each week for two (2) consecutive weeks. The Liquor Licensee or Wholesaler Licensee shall have seven (7) days from the day the notice is delivered, or from the date of last publication, to show cause why the Liquor License or Wholesaler License should not be revoked or suspended or the special restrictions imposed. During

this time, the Commission shall afford the Liquor Licensee or Wholesaler Licensee an opportunity to appear and be heard, either in person or through a representative, and to submit such evidence as may be relevant. The Commission shall make its recommendation to the Tribal Council, together with its written findings in support of its recommendation, within three (3) business days after any hearing. The final decision of the Tribal Council suspending, revoking, or imposing special restrictions is appealable to the Tribal Court as provided in this Liquor Ordinance.

**H. Temporary Revocation or Suspension of a Liquor License or Wholesaler License Without Notice.** In the event of an emergency and/or to protect the health, safety, and welfare of the public on the Reservation, the Commission may temporarily revoke or suspend a Liquor License or Wholesaler License without prior notice for a period not exceeding thirty (30) days. Such temporary suspension or revocation is appealable to the Tribal Court as provided in this Liquor Ordinance.

#### IX. CERTIFIED SERVERS.

**A. Application Requirements.** Every employee of a Liquor Licensee, twenty-one (21) years of age or older, who Sells Liquor at a Licensed Liquor Establishment on the Reservation must be a Certified Server. An employee shall apply for certification on such forms, accompanied by such fee, and in such manner as may be prescribed by the Commission. The application for certification shall contain:

1. the name and address of the applicant;
2. a list of all the applicant's jobs and employment for the preceding three (3) years;
3. a list of all residences for the preceding three (3) years, including street address, city, and state, and dates of residence at each address;
4. a signed statement that the applicant agrees to abide by this Liquor Ordinance and consents to the personal jurisdiction of the Pueblo and its courts for purposes of Liquor regulation and enforcement of this Liquor Ordinance; and
5. evidence (*i.e.*, certificate of completion) that the applicant has successfully completed the Liquor server education training program approved by the Tribal Council or a signed statement that the applicant agrees to take such program within thirty (30) days of his or her first day of employment and will not Sell Liquor at the Licensed Liquor Establishment on the Reservation until then.

**B. Certification Term.** A Certified Server's certification shall be valid for five (5) years from the date of his or her successful completion of the Liquor server education training program.

**C. Revocation.** Upon recommendation of the Commission, the Tribal Council may revoke any certification issued under this Section if the Certified Server violates any provision of this Liquor Ordinance or any regulations promulgated hereunder, violates any applicable Pueblo law, makes a material misstatement on the application for certification, is convicted of a misdemeanor involving a violation of a Liquor law or a felony, or for other good cause shown. Such revocation is appealable to the Tribal Court as provided in this Liquor Ordinance.

#### X. HAPPY HOURS.

Subject to approval of the Tribal Council, the Commission may adopt a policy or regulations on the conduct of happy hours at Licensed Liquor Establishments wherein Liquor is Sold on certain occasions or at certain times for a price substantially lower than at other times. The Tribal Council also may request that each Licensed Liquor Establishment conducting Happy Hours establish written policies on Happy Hours for approval or disapproval by the Commission.

#### XI. APPEALS TO TRIBAL COURT.

**A. Appealable Actions.** Any Person that is denied a Liquor License or a Wholesaler License, or whose Liquor License or Wholesaler License is suspended, revoked, limited by special restrictions, or denied renewal, may appeal the adverse action to the Tribal Court. Any Person that is denied a certification or whose status as a Certified Server has been revoked may appeal the adverse action to the Tribal Court. Any Liquor Licensee wishing to challenge the assessed amount of the Liquor Excise Tax and/or interest may appeal the assessment to the Tribal Court. Except as otherwise provided, all appeals hereunder must be filed with the Tribal Court within thirty (30) days of the date of the adverse action or be forever barred. If no appeal to the Tribal Court is timely made as provided herein, an action is final and shall not be subject to further appeal in any forum or court.

**B. Rules; Stay; Bond.** The procedural rules of the Tribal Court appropriate for administrative appeals or such other procedural rules that may be established by regulation to govern such appeals shall apply. Upon request, the Tribal Court in its discretion may stay a suspension or revocation pending an

appeal and/or require that the appellant post an appeal bond in such amount as may be set by the Tribal Court.

**C. Decision of Tribal Court Final.** All decisions of the Tribal Court on appeals under this Section are final and not further appealable in any forum or court.

#### XII. LIQUOR EXCISE TAX.

**A. Tax Imposed.** For the privilege of Selling Liquor within the Reservation, there is hereby levied an excise tax known as the "Liquor Excise Tax" upon each Sale of Liquor in whatever package or container. The incidence of the Liquor Excise Tax shall be upon all Liquor Licensees Selling Liquor at Licensed Liquor Establishments on the Reservation; *provided* that reimbursement for the Liquor Excise Tax imposed hereunder may be collected by the Liquor Licensee from the purchaser on all Sales of Liquor by adding the Liquor Excise Tax to the sales price of the Liquor Sold.

**B. Rate of Liquor Excise Tax.** The initial rate of the Liquor Excise Tax shall be five percent (5%) of the Selling price of the Liquor; *provided* that the Tribal Council may hereafter set the rate of the Liquor Excise Tax by regulations.

**C. Resale Exemption.** A Wholesaler possessing a valid Wholesaler License shall be exempt from imposition of the Liquor Excise Tax on all transactions involving Sales of Liquor to Liquor Licensees on the Reservation for resale at Licensed Liquor Establishments on the Reservation.

**D. Monthly Report and Remittance.** All Liquor Excise Taxes levied are due and payable by Liquor Licensees on or before the twenty-fifth (25th) day of the calendar month immediately following the month in which the Liquor Excise Taxes accrue. Every Liquor Licensee subject to the Liquor Excise Tax shall complete and file with the Tribal Comptroller and the Tax Commission a return for the preceding tax period on a form prescribed and furnished by the Tribal Comptroller or Tax Commission, setting forth such information as required. The return shall be accompanied by a remittance of the amount of the Liquor Excise Tax due. The return shall be signed by the Liquor Licensee, as the taxpayer, or an authorized agent of the Liquor Licensee.

**E. Retention of Invoices and Records; Inspection.** Every Liquor Licensee shall maintain file copies of all the invoices under which the Liquor Licensee purchased Liquor for at least five (5) years from the end of the year following the Liquor Licensee's purchase date. Every Liquor Licensee also shall maintain file copies of all the invoices

under which the Liquor Licensee Sold Liquor for at least five (5) years from the end of the year following the end of the year in which the Sale was made. All invoices required to be kept under this Section may be inspected by the Tax Commission and the Commission, along with any stock of Liquor in the possession of the Liquor Licensee, and the Tax Commission or the Commission may contact any Wholesaler to verify quantities of Liquor sold and delivered to any Liquor Licensee.

**F. Use of Tax Revenues.** The Pueblo shall use revenues from the Liquor Excise Tax for the benefit of the Reservation and Pueblo community. In appropriating these tax revenues, the Tribal Council shall give priority to:

1. Strengthening the Pueblo's government, including but not limited to improving its justice system to enforce this Liquor Ordinance;

2. Improving the Pueblo's health, education, and other social services programs;

3. Developing and enhancing alcohol and drug abuse prevention activities and community services that relate specifically to the needs of the Pueblo, its members, and the entire Reservation populace; and

4. Funding the stipends to be paid to the Commissioners.

**G. Imposition of Interest on Taxes.** All Liquor Excise Taxes, fees, or other charges not paid when due shall bear interest from the date such Liquor Excise Taxes, fees, or charges become due until the date paid. Interest shall be imposed on any unpaid amount from the date the payment was due, without regard to any extension of time or stay of payment, to the date payment is received. The annual rates of interest shall be as follows until otherwise established in regulations:

1. Interest due to the Pueblo shall be computed at the rate of one and one-half percent (1.5%) per month, or any fraction of the month, from the last day of the month following the period for which the amount or any portion of it should have been returned until the date of payment.

2. Notwithstanding the above, if demand is made for the payment of any Liquor Excise Tax, and if such amount is paid within ten (10) days after the date of such demand, no interest on the Liquor Excise Tax so paid shall be imposed for the period after the date of demand.

**H. Other Costs and Penalties.** The Tax Commission may charge administrative costs and expenses incurred by it in collecting the Liquor Excise Tax from Liquor Licensees that fail to pay the tax when due.

**I. Appeals.** Any Person upon whom tax and/or interest has been assessed under this Article may appeal the accuracy and amount of the assessment to the Tribal Court. All such appeals shall be filed with the Tribal Court within three (3) months of the assessment. Tax assessments being appealed shall be paid under protest pending the appeal and shall be deposited into an interest-bearing account pending such appeal.

### XIII. ENFORCEMENT.

**A. Civil Liability.** Subject to the approval of the Tribal Council, the Commission may bring a civil action in the Tribal Court in the name of the Pueblo against any Person engaged in an activity or activities prohibited herein and may recover a civil fine not exceeding five thousand dollars (\$5,000.00) per violation, attorneys' fees, injunctive relief, and/or any other relief that is just and equitable under the circumstances from the Tribal Court, including but not limited to orders for the offending Person:

1. to perform up to one hundred and twenty (120) hours of community service on the Reservation;

2. to make restitution for the cost of any damages; and/or

3. to return to the Pueblo any monetary benefit derived from engaging in the activities prohibited by this Liquor Ordinance.

#### **B. Order of Exclusion.**

1. For good and sufficient cause found, the Tribal Court may refer to the Tribal Council for exclusion proceedings under traditional Pueblo law any Indian Person who engages in an activity or activities prohibited by this Liquor Ordinance.

2. For good and sufficient cause found, the Tribal Court may include within an injunctive order under Subsection A an order barring a Person from entering or remaining on the Reservation.

#### **C. Limitations.**

1. Notwithstanding any other provision of this Liquor Ordinance, no penalty may be imposed pursuant or related to this Liquor 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.*, or other applicable Federal law.

2. Nothing in this Liquor Ordinance shall be construed to authorize the criminal trial or punishment by the Tribal Court of any non-Indian except to the extent allowed under Federal law. When any provision of this Liquor Ordinance is violated by a non-Indian, the Pueblo shall cause the non-Indian to be referred to State and/or Federal

authorities for criminal investigation and possible prosecution under applicable law. It is the intent of the Pueblo that any non-Indian referred to State and/or Federal authorities be criminally prosecuted to the full extent of applicable State and/or Federal criminal law.

3. Nothing in this Liquor Ordinance, including but not limited to any civil or criminal trial or punishment by the Tribal Court or Tribal Council of any Indian or non-Indian authorized hereunder, shall be construed to bar a similar trial or punishment to the full extent of any applicable State and/or Federal civil or criminal law.

**D. Surrender of Liquor.** Any Person suspected of having violated any provision of this Liquor Ordinance shall, in addition to any other civil penalty imposed hereunder, be required to surrender any Liquor in such Person's possession to the Commission or to the Pueblo or federal law enforcement officer making the arrest or issuing the complaint, as applicable.

#### **E. Inspection of Licensed Liquor Establishment Premises.**

1. All premises used in the storage or sale of Liquor or any premises or parts of premises used or in any way connected, physically or otherwise, with a Licensed Liquor Establishment, shall at all times be open to inspection by any Pueblo or federal inspectors or Pueblo or federal law enforcement officers, including but not limited to Commission staff.

2. Every Person, being on such premises and having charge thereof, who refuses or fails to admit a Pueblo or Federal inspector or Pueblo or Federal law enforcement officer demanding to enter therein in pursuance of this Section in the execution of his or her duty, or who obstructs or attempts to obstruct the entry of such inspector or officer, shall thereby be deemed to have violated this Liquor Ordinance.

### XIV. TRANSPORTATION THROUGH RESERVATION.

Nothing in this Liquor Ordinance shall apply to the otherwise lawful transportation of Liquor through the Pueblo by Persons remaining on public highways or other paved facilities for motor vehicles and where such Liquor is not Sold, or offered for Sale within the Reservation.

### XV. TRIBAL COUNCIL PLAN TO ASSURE PUBLIC SAFETY.

Before the Tribal Council issues any Liquor License pursuant to this Liquor Ordinance, the Commission shall develop and submit to the Tribal

Council for adoption a Plan setting forth procedures for the assurance of police, fire, rescue, and other governmental services necessary to assure the safety of the public in connection with the Sale and Service of Liquor on the Reservation. No Liquor License may be issued until the Tribal Council has adopted the Plan required by this Section.

#### XVI. SOVEREIGN IMMUNITY.

Nothing in this Liquor Ordinance is intended nor shall be construed as a waiver of the sovereign immunity of the Pueblo, provided, however, that the Pueblo waives its immunity to the sole and limited extent necessary to permit Persons to exercise any appeal to the Tribal Court as permitted by this Liquor Ordinance. No employee, officer, or agent of the Pueblo shall be authorized, nor shall he or she attempt, to waive the immunity of the Pueblo.

#### XVII. JURISDICTION; CONFLICTS WITH OTHER LAWS.

**A. Jurisdiction.** Subject to Article XII(C), any and all actions pertaining to alleged violations of this Liquor Ordinance, or appealing any action of the Pueblo or any officer, employee, or agent of the Pueblo with respect to any matter addressed by or arising under this Liquor Ordinance, shall be brought in the Tribal Court, which Court shall have exclusive jurisdiction consistent with the inherent sovereignty and immunity of the Pueblo and applicable Pueblo and Federal law.

**B. Conflicts with Other Laws.** If this Liquor Ordinance is determined to conflict with any other Pueblo law of general application, this Liquor Ordinance shall control.

#### XVIII. SEVERABILITY.

If any provision of this Liquor Ordinance or the application of any provision to any Person or circumstance is held invalid or unenforceable by the Tribal Court, such holding shall not invalidate or render unenforceable the remainder of this Liquor Ordinance and its application to any other Person or circumstances and, to this end, the provisions of this Liquor Ordinance are severable.

#### XIX. EFFECTIVE DATE.

This Liquor Ordinance shall be effective on such date as the Secretary of the Interior certifies this Liquor Ordinance and publishes the same in the **Federal Register**.

#### XX. AMENDMENT.

This Liquor Ordinance may be amended by a resolution adopted by a

majority vote of the Tribal Council. No such amendment shall take effect until certified by the Secretary of the Interior and published in the **Federal Register**.

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### DEPARTMENT OF THE INTERIOR

#### Bureau of Land Management

[AK-910-08-1739-NSSI]

#### Notice of Public Meeting, North Slope Science Initiative, Science Technical Advisory Panel

**AGENCY:** Bureau of Land Management, Alaska State Office, North Slope Science Initiative, Interior.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, North Slope Science Initiative (NSSI) Science Technical Advisory Panel (STAP), will meet as indicated below.

**DATES:** The meeting will be held September 18 and 19, 2008, at the National Park Service Office, 4175 Geist Road, Fairbanks, Alaska. The September 18 meeting will begin at 9 a.m., with a one-hour public comment beginning at 3 p.m. The September 19 meeting will begin at 9 a.m. and adjourn at 12:20 p.m.

**FOR FURTHER INFORMATION CONTACT:** John F. Payne, PhD, Executive Director, North Slope Science Initiative (910), c/o Bureau of Land Management, 222 W. Seventh Avenue, #13, Anchorage, Alaska 99513. Telephone (907) 271-3131 or e-mail [jpayne@ak.blm.gov](mailto:jpayne@ak.blm.gov).

**SUPPLEMENTARY INFORMATION:** The North Slope Science Initiative, Science Technical Advisory Panel provides advice and recommendations to the North Slope Science Initiative Oversight Group regarding priority needs for management decisions across the North Slope of Alaska. These priority needs may include recommendations on inventory, monitoring and research activities that contribute to informed land management decisions. At this meeting, discussion topics will include:

- Report by Science Technical Advisory Panel Chair on committee activities
- Development of emerging issues
- Coordination with senior NSSI agency staff on emerging issues
- Subcommittee reports

• Other topics the Oversight Group or Science Technical Advisory Panel may raise

All meetings are open to the public. Depending on the number of people wishing to comment and time available, the time for individual oral comments may be limited, so be prepared to submit written comments if necessary. You may present written comments to the Science Technical Advisory Panel through the Executive Director, North Slope Science Initiative. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Individuals who plan to attend and need special assistance, such as sign language interpretation, transportation, or other reasonable accommodations, should contact the Executive Director, North Slope Science Initiative.

Dated: August 6, 2008.

**Thomas P. Lonnie,**  
Alaska State Director.

[FR Doc. E8-18715 Filed 8-12-08; 8:45 am]

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### DEPARTMENT OF THE INTERIOR

#### Minerals Management Service

#### Outer Continental Shelf (OCS), Alaska OCS Region, North Aleutian Basin, Proposed Oil and Gas Lease Sale 214

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Notice of scoping meetings and extension of scoping period to prepare an Environmental Impact Statement (EIS).

**SUMMARY:** As part of the National Environmental Policy Act (NEPA) scoping process for the EIS on the proposed North Aleutian Basin OCS Oil and Gas Lease Sale 214, MMS has scheduled seven scoping meetings for August and September of 2008 to provide opportunity for public participation in the scoping process from communities within the vicinity of the North Aleutian Basin Planning Area. In addition, the MMS is announcing an extension of the deadline for submission of written scoping comments along with this public scoping meeting schedule.