

the use of false or altered identification which falsely purports to show the individual to be over the age of 21 years shall be guilty of violating this Ordinance.

4.6.11 Any person guilty of a violation of this Ordinance shall be liable to pay the Tribe the amount of \$500 per violation as civil damages to defray the Tribe's cost of enforcement of this Ordinance.

4.6.12 When requested by the provider of liquor, any person shall be required to present official documentation of the bearer's age, signature and photograph. Official documentation includes one of the following:

(1) Driver's license or identification card issued by any state department of motor vehicles;

(2) United States Active Duty Military ID;

(3) Passport.

4.6.13 Liquor which is possessed, including for sale, contrary to the terms of this Ordinance is declared to be contraband. Any Tribal agent, employee or officer who is authorized by the Tribal Council to enforce this section shall seize all contraband and preserve it in accordance with the provisions established for the preservation of impounded property.

4.6.14 Upon being found in violation of the Ordinance, the party shall forfeit all right, title and interest in the items seized which shall become the property of the Tribe.

#### Section 4.7 Abatement.

4.7.1 Any room, house, building, vehicle, structure, or other place where liquor is sold, manufactured, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this Ordinance or of any other Tribal law relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, and all property kept in and used in maintaining such place, is hereby declared to be a nuisance.

4.7.2 The Chairman of the Tribal Councilor, if the Chairman fails or refuses to do so, by a majority vote, the Tribal Council shall institute and maintain an action in the name of the Tribe to abate and perpetually enjoin any nuisance declared under this Ordinance. In addition to all other remedies at Tribal law, the Tribal Court may also order the room, house, building, vehicle, structure, or place closed for a period of one (1) year or until the owner, lessee, tenant, or occupant thereof shall give bond of sufficient sum of not less than \$25,000 payable to the Tribe and on the

condition that liquor will not be thereafter manufactured, kept, sold, bartered, exchanged, given away, furnished, or otherwise disposed of thereof in violation of the provisions of this Ordinance or of any other applicable Tribal law and that they will pay all fines, costs and damages assessed against them for any violation of this Ordinance. If any conditions of the bond be violated, the bond may be recovered for the use of the Tribe.

4.7.3 In all cases where any person has been found in violation of this Ordinance relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, an action may be brought to abate as a nuisance any real estate or other property involved in the violation of the Ordinance and violation of this Ordinance shall be prima facie evidence that the room, house, building, vehicle, structure, or place against which such action is brought is a public nuisance.

#### Section 4.8 Authority of CEO

4.8.1 The Tribal Council hereby authorizes the Chief Executive Officer to promulgate such rules, regulations, policies and procedures which he/she deems necessary to implement the provisions of this Ordinance.

#### Certification of Adoption

I, Heather Johnson Jock, Secretary of the Jamestown S'Klallam Tribal Council, do hereby certify that the foregoing Jamestown S'Klallam Liquor Control Ordinance was adopted at a meeting of the Jamestown S'Klallam Tribal Council held on the 19th day of Feb., 2008, at the Jamestown S'Klallam Tribal Office in Blyn, Washington, and where a quorum was present and approving the Ordinance by resolution by a vote of 5 FOR and 0 AGAINST with 0 ABSTAINING.

\s\ Heather Johnson Jock  
Heather Johnson Jock, Secretary of the Tribal Council

[FR Doc. E8-21996 Filed 9-19-08; 8:45 am]

BILLING CODE 4310-4J-P

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Sac & Fox Tribe of the Mississippi in Iowa Liquor Control Code

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

**ACTION:** Notice.

**SUMMARY:** This notice publishes the Liquor Control Code of the Sac & Fox Tribe of the Mississippi in Iowa. The

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

**DATES:** *Effective Date:* This Ordinance is effective September 22, 2008.

#### FOR FURTHER INFORMATION CONTACT:

David Christensen, Tribal Operations Officer, Midwest Regional Office, One Federal Drive, Room 550, Ft. Snelling, MN 55111, Telephone (612) 725-4554; or Elizabeth Colliflower, Office of Tribal Services, 1849 C Street, NW., Mail Stop 4513-MIB, Washington, DC 20240; Telephone (202) 513-7627; Fax (202) 501-0679.

**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 Sac & Fox Tribe of the Mississippi in Iowa, Tribal Council adopted this Liquor Code on June 11, 2008. The purpose of this Code is to govern the sale, possession and distribution of alcohol within the Sac & Fox Tribe of the Mississippi in Iowa tribal land.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that this Liquor Control Code of the Sac & Fox Tribe of the Mississippi in Iowa was duly adopted by the Sac & Fox Tribal Council on June 11, 2008.

Dated: September 11, 2008.

**George T. Skibine,**

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

The Sac & Fox Tribe of the Mississippi in Iowa Liquor Control Code reads as follows:

SAC & FOX TRIBE OF THE  
MISSISSIPPI IN IOWA  
TITLE 21. LIQUOR CONTROL  
ARTICLE I

GENERAL PROVISIONS

CHAPTER 1. GENERALLY

Sec. 21–1101. Authority and Purpose.

The purpose of this Title is to regulate and control the distribution, possession and sale of liquor within lands subject to the jurisdiction of the Sac and Fox Tribe of the Mississippi in Iowa. The authority for enactment of this Title is as follows:

(a) The Act of August 15, 1953, (Pub. L. 83–277, 67 Stat. 586, codified at 18 U.S.C. § 1161), which provides a federal statutory basis for the Tribe to regulate the activities of the manufacture, distribution, sale and consumption of liquor on Indian lands under the jurisdiction of the Tribe; and

(b) Article X, Section 1 (e), (h), (k), and (n) of the Constitution and Bylaws of the Sac and Fox Tribe of the Mississippi in Iowa, which vests the Tribal Council with legislative and administrative authority to protect and preserve the property and natural resources of the Tribe; to protect the peace, safety, and general welfare of the Tribe; to preserve order among members of the Tribe; to impose license fees on persons coming upon Tribal Lands to do business; and otherwise empowers the Tribal Council to act for the Tribe. This Title 21 was approved and adopted by the Tribal Council on June 11, 2008 by Resolution No. 10–2008.

Sec. 21–1102. Public Policy.

It is the policy of the Tribe to strictly limit the sale of liquor on Tribal Lands. The Tribal Council has determined that the regulated sale and consumption of Alcoholic Beverages at the site of the Casino Property is an appropriate activity that will enhance the revenues of the Tribe's Casino Enterprise. Accordingly, sales of Alcoholic Beverages shall be permitted, but shall be geographically limited to Casino Property and strictly regulated in accordance with this Title and the Regulations.

Sec. 21–1103. Citation.

This Title shall be cited as the “Sac and Fox Tribe of the Mississippi in Iowa Liquor Control Act” and may also be referred to as “Title 21.”

Sec. 21–1104. Federal Approval.

This Title, as of the Effective Date, has been approved by the United States Secretary of the Interior, in accordance with 18 U.S.C. Section 1161.

Sec. 21–1105. Effective Date.

This Title is effective as of September 22, 2008, the date of publication in the **Federal Register**.

Sec. 21–1106. Definitions.

Unless the context requires otherwise, as used in this Title:

(a) “Alcoholic Beverage” means any intoxicating liquor, beer, or any wine as defined under the provisions of this Title.

(b) “Application” means a formal written request for the issuance of a Liquor License, supported by a verified statement of facts, as described in detail at Section 21–3107 of this Title.

(c) “Beer” means any liquid capable of being used for beverage purposes made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains or made by the fermentation of or by distillation of the fermented products of fruit, fruit extracts, or other agricultural products, containing more than one-half of one percent of alcohol by volume but not more than five percent of alcohol by weight but not including mixed drinks or cocktails mixed on the premises.

(d) “Casino Enterprise” means the Meskwaki Bingo Casino Hotel, a casino and hotel operation located on Tribal Lands and wholly owned by the Tribe.

(e) “Casino Property” means all real property, including the buildings, adjacent parking lots and all related infrastructure that comprise the Casino Enterprise.

(f) “Code” means the Code of the Sac and Fox Tribe of the Mississippi in Iowa, including any amendments thereto.

(g) “Director” means the Director of Liquor Control as described in detail at Section 21–2102 of this Title.

(h) “Distributor” means a Person duly licensed by the State and the Tribe who is entitled to purchase, sell, manufacture, deliver and/or distribute all forms of Alcoholic Beverages to licensed retail establishments within the State, including the Casino Enterprise.

(i) “Intoxicating Liquor” means any liquid either commonly used, or reasonably adopted to use for beverage purposes, containing in excess of three and two-tenths percentum of alcohol by weight. This shall include any type of wine, regardless of alcohol content.

(j) “Liquor License” means a Tribal liquor license issued in accordance with Chapter 3 of this Title.

(k) “Person” means any individual, association, partnership, corporation, joint venture or other form of business association.

(l) “Qualified Sponsor” means the sponsor of a Special Event, which may be (i) a duly authorized representative of the Casino Enterprise, (ii) a State licensed distributor, wholesaler or manufacturer of Alcoholic Beverages; or (iii) other Person possessing the requisite license and other legal authority to conduct the proposed activity on Tribal Lands.

(m) “Regulations” means all Regulations adopted under this Title in accordance with Section 21–2103 hereof.

(n) “Sale” or “Sell” means and includes the exchange, barter, and traffic and also includes the selling or supplying or distributing by any means whatsoever of any Intoxicating Liquor or beer.

(o) “Special Event” means any social, charitable or for-profit discreet activity or event (i) licensed hereunder; (ii) conducted on Casino Property by a Qualified Sponsor; and (iii) overseen by Casino Enterprise management, at which Alcoholic Beverages are sold by a vendor, wholesaler or distributor licensed by the State and/or the Tribe, as applicable.

(p) “State” means the State of Iowa.

(q) “Tribal Constitution” means the Constitution and Bylaws of the Sac and Fox Tribe of the Mississippi in Iowa, approved by the Secretary of the Interior on October 15, 1937, and any amendments thereto.

(r) “Tribal Council” means the duly elected governing body of the Tribe.

(s) “Tribal Lands” means all land owned by the Tribe over which the Tribe exercises jurisdiction, whether held in trust for the Tribe by the United States of America for the benefit of the Tribe, owned in fee simple by the Tribe, or otherwise.

(t) “Tribe” means the Sac and Fox Tribe of the Mississippi in Iowa.

(u) “Wholesaler” means any person, other than a vintner, brewer or bottler of beer or wine, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in alcoholic liquor, wine, or beer. A wholesaler shall not sell for consumption upon Tribal Lands.

(v) “Wine” means any beverage containing more than five percent of alcohol by weight but not more than seventeen percent of alcohol by weight or twenty-one and twenty-five hundredths percent of alcohol by volume obtained by the fermentation of the natural sugar contents of fruits or other agricultural products but excluding any product containing alcohol derived from malt or by the distillation process from grain, cereal, molasses, or cactus.

## Sec. 21–1107. Construction.

This Title shall be interpreted and applied in a manner consistent with all other laws, ordinances, resolutions, and regulations of the Tribe.

## Sec. 21–1108. Severability.

If a court of competent jurisdiction finds any provision of this Title to be invalid or illegal under applicable Federal or Tribal law, such provision shall be severed from this Title and the remainder of this Title shall remain in full force and effect.

## Sec. 21–1109. Headings.

Headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any portion of this Title.

## Sec. 21–1110. Amendments.

This Title may be amended only upon an affirmative vote of a majority of the Tribal Council, the approval of the Secretary, and the publication of the approved amendment in the **Federal Register**.

## CHAPTER 2. REGULATION OF INTOXICATING LIQUOR.

## Sec. 21–2101. General Prohibition

It shall be unlawful to manufacture for sale, sell, offer, or keep for sale, possess or transport all forms of Intoxicating Liquor or beer except upon the terms, conditions, limitations, and restrictions specified in this Title and the Regulations.

## Sec. 21–2102. Director Appointment and Authority.

The Tribal Council shall appoint a Director of Liquor Control who shall have the following duties and authority:

(a) To publish and enforce this Title and the rules and Regulations governing the sale, manufacture, and distribution of Intoxicating Liquor and beer on Tribal Lands;

(b) To employ or procure the services of managers, accountants, security personnel, inspectors, and such other persons as shall be reasonably necessary to allow the Director and/or the Tribal Council to perform their respective functions under this Title;

(c) To issue Liquor Licenses, with the approval of the Tribal Council, permitting the sale or distribution of liquor on Tribal Lands;

(d) To convene and facilitate Tribal Council hearings on violations of this Title for the issuance or revocation of licenses hereunder;

(e) To bring suit in the appropriate court to enforce this Title as necessary;

(f) To determine and seek damages for violation of this Title;

(g) To make such reports as may be required;

(h) To compile information and conduct background investigations to determine the suitability of an applicant for a Liquor License;

(i) To collect fees levied or set in accordance with this Title, and to keep accurate records, books and accounts;

(j) To develop forms for applications, licenses and other matters covered by this Title;

(k) To take or facilitate all action necessary to follow or implement applicable provisions of State law, as required;

(l) To coordinate with other departments and agencies of the Tribe to ensure the effective enforcement of this Title and the Regulations; and

(m) To exercise such other powers as are necessary and appropriate to fulfill the purposes of this Title.

## Sec. 21–2103. Promulgation of Regulations.

The Director is hereby authorized to make rules and Regulations not inconsistent with this Title to the end that this Title shall be applied and administered uniformly throughout Tribal Lands. All such proposed Regulations shall be first submitted to the Tribal Council for consideration, possible revision and final approval. Following approval by the Tribal Council, copies of all Regulations shall be made available to all persons subject to this Title.

## Sec. 21–2104. Director as Employee of Tribe.

The Director and other individuals employed under the Director's supervision shall be employees of the Tribe. The Director may be removed for cause at any time by vote of the Tribal Council.

## Sec. 21–2105. Interim Appointment.

As of the Effective Date, the Tribal Council designates the Tribe's Executive Director to serve as the Director of Liquor Control until such time as a permanent appointment is made in accordance with this Title.

## Sec. 21–2106. Inspection Rights.

The premises on which Intoxicating Liquor and beer is sold or distributed shall be open for inspection by the Director or his designee at all reasonable times for the purpose of ascertaining whether this Title and the rules and Regulations promulgated hereunder are being strictly followed.

## Sec. 21–2107. Tribal Control of Importation and Sale of Intoxicating Liquor.

The Tribal Council shall have the sole and exclusive right to control and restrict the importation of all forms of Intoxicating Liquor and beer, except as otherwise provided in this Title and no person or organization shall so import any such Intoxicating Liquor or beer into the Tribal Lands, unless authorized by a Liquor License issued under this Title. No licensed distributor, wholesaler or distillery shall sell any form of Intoxicating Liquor or beer within the Tribal Lands to any person or organization unless licensed hereunder and except as otherwise provided in this Title. It is the intent of this Section to retain in the Tribal Council exclusive control within Tribal Lands as the sole authorizer and controller of all forms of Intoxicating Liquor and beer sold by retailers, distributors, wholesalers or vendors within the Tribal Lands or imported therein, and except as otherwise provided in this Title. The powers of the Director under this Title are by express delegation of the Tribal Council.

## Sec. 21–2108. Limitation on Powers.

In the exercise of their respective powers and duties under this Title, the Director, the Tribal Council, and their individual members, representatives and employees, shall not accept any gratuity, compensation or other thing of value from any liquor wholesaler, retailer, or distributor or from any licensee or applicant under this Title.

## Sec. 21–2109. Possession of Liquor Contrary to this Title.

All forms of Intoxicating Liquor and beer which are possessed contrary to the terms of this Title are declared to be contraband. Any Tribal agent, employee, or officer who is authorized by this Title and the Regulations to enforce this Section shall have the authority to and shall seize all contraband.

## Sec. 21–2110. Disposition of Seized Contraband.

Any officer, employee or agent of the Tribe seizing contraband shall preserve the contraband in accordance with applicable law. Upon being found in violation of this Title, the party shall forfeit all right, title and interest in the items seized which shall become the property of the Tribe.

## CHAPTER 3. LIQUOR LICENSES.

## Sec. 21–3101. Power to License and Tax.

The power to establish licenses and levy taxes under the provisions of this Title is vested exclusively with the Tribal Council. The Tribal Council has delegated certain authority and responsibilities to the Director of Liquor Control and to the Tax Director, each in accordance with the express provisions in this Title and Title 17 (Taxation). The Tribal Council retains primary responsibility for implementation, oversight and enforcement of this Title.

## Sec. 21–3102. Types of Licenses

There is hereby authorized three categories of Liquor Licenses, as follows:

- Class I—Retail,
- Class II—Special Event, and
- Class III—Distributor.

## Sec. 21–3103. Class I—Retail License Description.

Only one Class I Retail License shall be permitted under this Title. Such license shall be approved subject to the Director's determination, with the concurrence of the Tribal Council, that all of the conditions set forth at Section 21–3108 have been fully satisfied. Upon recommendation of the Director, the Tribal Council may, on or following the Effective date, issue a Class I—Retail License to the business operation of the Tribe known as the "Meskwaki Bingo Casino Hotel." The Class I—Retail License shall entitle the Casino Enterprise to sell at retail in restaurants, bars, and other areas designated by Regulation, any Alcoholic Beverages permitted hereunder. All such sales shall be strictly limited to the physical area defined herein as the Casino Property. All purchases, deliveries and retail sales of Alcoholic Beverages on the Casino Property shall be in strict compliance with this Title, the terms of the Liquor License and the Regulations promulgated hereunder.

## Sec. 21–3104. Class II—Special Event License Description.

Upon (i) request of the General Manager of the Casino Enterprise or his designee, and (ii) recommendation of the Director, a Class II—Special Event License may be issued by the Tribal Council to the Qualified Sponsor of a Special Event. The duration of such license shall be established at the time of issuance; provided, however, the duration shall not be longer than fourteen (14) days. The license shall entitle the Qualified Sponsor to sell at retail the type(s) of Alcoholic Beverages

specified in the license. All Alcoholic Beverage sales approved under the terms of the Class II—Special Event License shall comply in all respects with this Title and the Regulations promulgated hereunder.

## Sec. 21–3105. Class III—Distributor License Description.

A Class III—Distributor License may be issued to an applicant who (i) is licensed by the State to purchase all forms of Intoxicating Liquor and beer at wholesale and to distribute to retail outlets in the State, and (ii) who meets the criteria under this Title and the Regulations to sell Intoxicating Liquor and beer to the Casino Enterprise.

## Sec. 21–3106. Term of Licenses.

The terms of the various Liquor Licenses are as follows:

- Class I—Retail: two years;
- Class II—Special Events: one to fourteen days; and
- Class III—Distributor: two years.

## Sec. 21–3107. Procedure for Obtaining Licenses.

(a) The Class I—Retail License authorized hereunder shall be issued to the Casino Enterprise subject to a recommendation by the Director and a determination by the Tribal Council's that the Casino Enterprise has satisfied the criteria described in Section Sec. 21–3108 of this Title.

(b) A Class II—Special Event License may be issued upon recommendation of the Director to an applicant who meets the definition of a Qualified Sponsor. The process for application shall be established by Regulation and shall include proof that the applicant holds all necessary State licenses.

(c) A Class III—Distributor License may be issued upon recommendation of the Director to an applicant who meets the criteria for a Distributor. The process for application shall be established by Regulation and shall include proof that the Applicant holds all necessary State licenses.

(d) In the event dual Tribal and State licenses are required by State law, no Person shall be allowed or permitted to sell, distribute or provide Intoxicating Liquor or beer on Tribal Lands unless such person is also licensed by the State, as required, to sell or provide such Intoxicating Liquor and beer.

## Sec. 21–3108. Conditions to Issuance of Class I—Retail License.

In addition to requirements established by Regulation and other provisions of this Title, Tribal Council may, upon recommendation of the Director, issue the Class I—Retail

License to the Casino Enterprise only after the Tribal Council has determined to its satisfaction that the Casino Enterprise has adopted and is prepared to implement the following procedures and requirements, as necessary to ensure compliance with this Title and the Regulations:

(a) Security and surveillance procedures ensuring the proper use and handling of all forms of Alcoholic Beverages;

(b) Appropriate revenue and accounting procedures pertaining to the purchase and sale of Alcoholic Beverages;

(c) Inventory control procedures and adequate storage, dispensing, service, management, pricing and security measures relating to the purchase and sale of Alcoholic Beverages;

(d) Identification procedures to ensure that no person under the age of twenty-one will be served any form of Alcoholic Beverage;

(e) Procedures ensuring that all aspects of Alcoholic Beverage management, purchase and sale comply with Tribal and any applicable State laws;

(f) Casino personnel have received appropriate training relating to compliance with this Title and the Regulations, service of Alcoholic Beverages, safety, health, revenue management and patron management issues;

(g) The Gaming Commission has reviewed the procedures for Alcoholic Beverage sales and has determined that such sales are not in violation of any provision of the Tribal-State Compact, the Gaming Code, the Gaming Regulations or other applicable law relating to gaming; and

(h) Such other requirements as the Director and the Tribal Council shall impose by Regulation.

## Sec. 21–3109. Content of Liquor License Application.

(a) No Class II or Class III Liquor License shall issue under this Title except upon a sworn Application filed with the Director containing a full and complete showing of the following:

(1) Satisfactory proof that the applicant is licensed by the State to sell, distribute, manufacture or transport, as applicable, Intoxicating Liquor and/or beer.

(2) Agreement by the applicant to accept and abide by Tribal law and all conditions of the Tribal license.

(3) Payment of a license fee as prescribed by the Director.

(4) Satisfactory proof that the applicant has not been convicted of a

felony or had his/her/its State license revoked or suspended.

(5) Satisfactory proof that notice of the Application has been posted in a prominent, noticeable place on the premises where intoxicating beverages are to be sold for at least 30 days prior to consideration by the Tribal Council and has been published at least once in the Tribal newspaper. The notice shall state the date, time, and place when the application shall be considered by the Tribal Council pursuant to Sec. 21-3110 of this Title.

(b) Any holder of a Tribal Liquor License shall be required to comply, as a condition of retaining such license, with all applicable Tribal laws and regulations.

#### Sec. 21-3110. Hearing on Application for Tribal Liquor License.

(a) All applications for a Tribal Liquor License shall, upon recommendation of the Director, be considered by the Tribal Council in open session at which the applicant, his/her attorney, and any person protesting the application shall have the right to be present, and to offer sworn oral or documentary evidence relevant to the Application. After the hearing, the Tribal Council, by vote and Resolution, shall determine whether to grant or deny the application based on:

(1) Whether the requirements of this Title and the Regulations have been met; and

(2) Whether the Director, with the approval of the Tribal Council, in its discretion, determines that granting the license is in the best interest of the Tribe.

(c) In the event the applicant for the Class II—Special Event License is a duly authorized representative of the Casino Enterprise, the requirements of this Section may be modified upon a showing by the applicant that all safety, health, security, inventory control, management and other matters pertaining to the Special Event conform in all respects with this Title and the Regulations.

#### Sec. 21-3111. License Fees.

The fee schedule for Liquor Licenses shall be established by the Director with the approval of the Tribal Council.

#### Sec. 21-3112. License not a Property Right.

Notwithstanding any other provision of this Title, a Tribal Liquor License is a mere permit for a fixed duration of time. A Tribal Liquor License shall not be deemed a property right or vested right of any kind, nor shall the granting of a Tribal Liquor License give rise to a

presumption of legal entitlement to a license in a subsequent time period.

#### Sec. 21-3113. No Transfer or Assignment.

No Tribal Liquor License issued under this Title may be assigned or transferred without the prior written approval of the Tribal Council, as expressed by formal Resolution.

#### Sec. 21-3114. Revocation of License.

Upon recommendation of the Director, the Tribal Council may revoke a Liquor License for reasonable cause upon notice and hearing at which the licensee shall be given an opportunity to respond to any charges against it and to demonstrate why the Liquor License should not be suspended or revoked.

### CHAPTER 4. REGULATION OF LIQUOR SALES AND DISTRIBUTION.

#### Sec. 21-4101. Retail Sales Limited to Tribal Casino Enterprise.

The retail sale of Intoxicating Liquor on Tribal Lands shall be prohibited except for (i) retail sales that comply with this Title, and (ii) retail sales that occur within the Casino Property.

#### Sec. 21-4102. Importation and Delivery of Liquor.

No Intoxicating Liquor or beer may be imported for resale or otherwise distributed on Tribal Lands except in conformance with this Title.

#### Sec. 21-4103. Additional Prohibitions.

(a) A person shall not sell or dispense any Alcoholic Beverage on the premises covered by the Tribal Liquor License except in conformance with the days and hours established by the State during which Alcoholic Beverages may be sold at retail for consumption on the premises.

(b) Any person who shall sell or offer for sale or distribute or transport in any manner, any liquor in violation of this ordinance, or who shall operate a motor vehicle or shall have any Alcoholic Beverage in his/her possession with intent to sell or distribute without a license, shall be guilty of a violation of this Title.

(c) Any person who sells any form of Intoxicating Liquor or beer to a person apparently under the influence of liquor shall be guilty of a violation of this Title.

#### Sec. 21-4104. Use and Consumption.

All Alcoholic Beverage sales shall be for the personal use and consumption of the purchaser. Resale of any Alcoholic Beverage purchased within Tribal Lands is prohibited. Any person who is not licensed pursuant to this Title who

purchases an Alcoholic Beverage within Tribal Lands and sells it, whether in the original container or not, shall be guilty of a violation of this Title and shall be subject to criminal and/or civil penalties under this Title, the Law and Order Code, and the Regulations.

#### Sec. 21-4105. Cash Sales Only.

All sales of Alcoholic Beverages within Tribal Lands shall be on a cash only basis and no credit shall be extended to any person, organization, or entity, except that this provision does not prevent the use of major credit cards.

#### Sec. 21-4106. Tribal Sales Tax.

a) The Tribal Tax Director shall have jurisdiction over all matters pertaining to a sales tax on Alcoholic Beverages sold on Tribal Lands. The amount of such tax shall be determined by the Tribal Tax Director with the approval of the Tribal Council, all in accordance with Title 17 (Taxation) of the Code.

b) The Tribal Treasurer shall establish a tax revenue account for the Tribe. The money received by the Tax Department from the taxes imposed by this Title shall be credited by the Treasurer to the tax revenue account of the Tribe to be used in the provision of tribal governmental services, including, but not limited to health, education, safety and welfare.

### CHAPTER 5. AGE AND OTHER RESTRICTIONS.

#### Sec. 21-5101. Sales to Persons Under 21.

It shall be unlawful to sell or give any Alcoholic Beverage to any person under the age of twenty-one (21) years. Any Person who violates this section shall be guilty of a Class 4 Offense as described at Sec. 13-51107 of the Law and Order Code of the Tribe. Violations of this Section by persons or entities which are not subject to the criminal jurisdiction of the Tribe may, following notice and a hearing, be subject to a civil penalty in accordance with the Regulations promulgated hereunder. The levy of a civil penalty by the Director under this Section is in addition to the power to suspend or revoke any Liquor License and to report such violation to the appropriate State authorities.

#### Sec. 21-5102. Purchase, Possession by Minor.

It shall be unlawful for any person under the age of twenty-one (21) years to purchase, attempt to purchase or possess or consume any form of Alcoholic Beverage, or to misrepresent his age for the purpose of purchasing or attempting to purchase such Alcoholic Beverage. Any person who violates any

of the provisions of this section shall be guilty of a Class 5 offense as described at Section 13–51113 of the Law and Order Code of the Tribe. Violations of this Section by persons or entities which are not subject to the criminal jurisdiction of the Tribe may, following notice and a hearing, be subject to a civil penalty in accordance with the Regulations promulgated hereunder. The levy of a civil penalty by the Director under this Section is in addition to the power to suspend or revoke any license and to report such violation to the appropriate State authorities.

#### Sec. 21–5103. Evidence of Legal Age Demanded.

Upon attempt to purchase any Alcoholic Beverage at a site licensed under this Title by any person who appears to the seller to be under legal age, such seller shall demand, and the prospective purchaser upon such demand, shall present satisfactory evidence that he or she is of legal age. Any person under legal age who presents to any seller falsified evidence as to his or her age shall be guilty of a Class 5 Offense under Sec. 13–51113 of the Law and Order Code of the Tribe.

#### CHAPTER 6. JURISDICTION, PENALTIES AND ENFORCEMENT.

##### Sec. 21–6101. Jurisdiction

All licensees and others who voluntarily enter onto Tribal Lands and transact business or otherwise engage in activity governed by this Title voluntarily submit to the jurisdiction of the Tribe and the personal jurisdiction of the Tribal Court System for purposes of enforcement of this Title and the Regulations.

##### Sec. 21–6102. Civil Penalties.

The Director shall recommend to the Tribal Council a schedule of civil penalties and administrative fines as he/she deems necessary for the effective enforcement of this Title. Such schedule shall be considered and adopted by the Tribal Council in the form of a Regulation in accordance with Section 21–2103 of this Title. The imposition of any civil penalty or administrative fine shall not limit the ability of the Tribal Council, upon recommendation of the Director, to suspend or revoke any license issued hereunder for the violation of any of the provisions of this Title or the Regulations. The Director shall also propose regulations relating to the process for administrative hearings before the Tribal Council. [All final administrative orders may be appealed to the Tribal Court.]

##### Sec. 21–6103. Criminal Violations.

All criminal violations hereunder shall be prosecuted in accordance with laws of the Tribe, and applicable federal law. In the event a criminal act is committed by a person over whom the Tribe does not exercise criminal jurisdiction, then the matter may be referred to appropriate State authorities for prosecution under State law.

#### CHAPTER 7. USE OF PROCEEDS AND INTERPRETATION.

##### Sec. 21–7101. Application of Proceeds.

The gross proceeds collected by the Director from all licensing activities under this Title and from fines imposed as a result of violations of this Title, shall be applied as follows:

- a) First, for the payment of all necessary personnel, administrative costs, and legal fees incurred in the enforcement of this Title; and
- b) Second, the remainder shall be deposited in the operating fund of the Tribe and expended by the Tribal Council for governmental services and programs on Tribal Lands.

##### Sec. 21–7102. Consistency With State Law.

All provisions and transactions under this Title shall be in conformity with State law regarding alcohol to the extent required by 18 U.S.C. Section 1161 and with all federal laws regarding alcohol in Indian Country, as defined at 18 U.S.C. Section 1151.

##### Sec. 21–7103. No Impact on Tribal Sovereignty.

Nothing in this Title shall be applied or interpreted to in any manner limit the immunity of the Tribe from uncontested suit or to otherwise limit the sovereign status of the Tribe.

##### Sec. 21–7104. Prior Enactments Repealed.

All prior Tribal enactments, laws, ordinances, resolutions or provisions thereof that are repugnant or inconsistent to any provision of this Title are hereby repealed.

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[UTU 80808]

#### Notice of Proposed Withdrawal and Transfer of Jurisdiction; Utah

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of realty action.

**SUMMARY:** The Department of Energy (DOE) has filed an application requesting the Secretary of the Interior to withdraw approximately 936 acres of land from the United States mining and mineral leasing laws and transfer jurisdiction to the DOE. The land would be used for ancillary facilities at the DOE's Crescent Junction Uranium Mill Tailings Repository in connection with moving the Moab Mill Site uranium mill tailings to the Repository. Except for existing claims, rights, and interests, including oil and gas leases that would be retained by the Secretary of the Interior, full management, jurisdiction, authority, responsibility, and liability for all activities conducted on the land would be vested in the DOE.

**DATES:** Comments must be received on or before December 22, 2008.

**ADDRESSES:** Comments should be sent to the Moab Field Office Manager, Bureau of Land Management, 82 East Dogwood Avenue, Moab, Utah 84532.

**FOR FURTHER INFORMATION CONTACT:** Mary von Koch, Realty Specialist, Moab Field Office at the above address, 435–259–2128.

**SUPPLEMENTARY INFORMATION:** The DOE has filed an application with the Bureau of Land Management (BLM) requesting the Secretary of the Interior withdraw the following described land from mining and mineral leasing and transfer jurisdiction to the DOE, subject to valid existing claims, rights, and interests:

#### Salt Lake Meridian

T. 21 S., R. 19 E.,

Sec. 22, S $\frac{1}{2}$ , excluding SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ , and SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;

Sec. 23, S $\frac{1}{2}$ , excluding S $\frac{1}{2}$ S $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ , and W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;

Sec. 26, the land lying North of the railroad right-of-way, excluding W $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , and NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ ;

Sec. 27, the land lying North of the railroad right-of-way, excluding N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , and E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ .

The area described contains approximately 936 acres in Grand County.

The purpose is to transfer jurisdiction of the 936 acres to the DOE and to protect DOE's ancillary facilities at the DOE's Crescent Junction Uranium Mill Tailings Repository in connection with moving the Moab Mill Site uranium mill tailings to the Repository.

The land proposed for transfer is located within a temporary DOE withdrawal created by Public Land Order No. 7649, and is therefore already