

COQUILLE INDIAN TRIBAL CODE

Chapter 200

Part 2 – Economic Development Liquor Control

COQUILLE INDIAN TRIBE

Chapter 200

Liquor Control

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200.010 General

1. Purpose. This Ordinance is for the purpose of regulating the manufacture, sale, distribution, possession and use of alcoholic beverage on the Coquille Indian Reservation and other lands subject to Tribal jurisdiction. The enactment of this ordinance will increase the ability of the Tribal government to regulate liquor manufacture, sale, distribution and possession on the Coquille Indian Reservation, as defined below.

2. Background.
 - (a) Subject to certain limitations, Article VI, Section 1 of the Constitution of the Coquille Indian Tribe vests the Coquille Tribal Council with legislative and executive authority, including the authority to adopt this Ordinance.
 - (b) The Tribal Council hereby specifically finds that the civil penalties referenced in this Ordinance are reasonably necessary and are related to the expense of governmental administration necessary in maintaining law and order and public safety on the Reservation and in managing, protecting and developing the natural resources on the Reservation. The Tribal Council further finds that this Ordinance is necessary to preserve and protect the health and welfare of the Tribe, Tribal members, employees and Tribal reservation guests. It is the legislative intent of the Tribal Council that all violations of this Ordinance, whether committed by tribal members, non-member Indians, or non-Indians, be considered civil in nature rather than criminal.

3. Jurisdiction. This Ordinance conforms to all requisite laws as required by 18 U.S.C. §1161. Nothing in this Ordinance is intended to expand the jurisdiction of the State of Oregon or diminish the jurisdiction of the Tribe.

200.120 Definitions

Unless otherwise required by the context or tribal or federal law, the following words and phrases have the meanings designated below:

1. “Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

2. "Alcoholic beverage" and “alcoholic liquor” mean any liquid or solid containing more than one-half of one percent alcohol by volume and capable of being consumed by a human being.

3. "Beer" means any alcoholic beverage containing more than one-half of one percent and not more than sixteen percent of alcohol by volume obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof in water, and includes ale, porter, brown, stout, lager beer, small beer, and strong beer.

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4. “Brewer” means a person engaged in the business of producing beer or other alcoholic beverages that would be allowed to be produced under both a state license and federal brewer’s permit.
5. “Brewery” means a licensed commercial facility used for the production, bottling, canning, kegging, packaging, distribution or retail sales of beer or other alcoholic beverages that would be allowed to be produced under both a state license and federal brewer’s permit on Tribal lands.
6. “Cider” means an alcoholic beverage made from the fermentation of the juice of apples or pears that contains not more than 8.5 percent of alcohol by volume, including, but not limited to, flavored, sparkling, carbonated or fortified cider.
7. “Coquille Indian Reservation” shall have the meaning set forth in 25 U.S.C. § 715c(b) or as provided otherwise under applicable law and includes all lands held in trust by the United States for the Tribe or its members and all lands over which the Tribe exercises jurisdiction, wherever located.
8. “Distilled spirits” means any alcoholic beverage obtained by the distillation of fermented agricultural products, and includes alcohol for beverage use, spirits of wine, whiskey, rum, brandy, and gin, including all dilutions and mixtures thereof; “distilled spirits” does not include beer, wine, or cider. For purposes of this Ordinance, “distilled spirits” means “distilled liquor” or “liquor” and such terms shall be used interchangeably.
9. “Distiller” means a person engaged in the business of producing distilled spirits.
10. “Distillery” means a licensed commercial facility used for the production, manufacture, distilling, blending, aging, bottling, packaging, branding, distribution or retail sale of distilled spirits on Tribal lands.
11. “Manufacture” means any one or more acts of producing, brewing, fermenting, distilling, blending, aging, bottling, or packaging alcoholic beverages and includes the importation of alcoholic beverages for sale or distribution.
12. “Person” means an individual, corporation, business trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, instrumentality or any other legal or commercial entity.
13. “Tasting Room” means a retail outlet owned, leased, or operated by a manufacturer that is the consumer facing area for persons to sample, consume for on-premise consumption, and purchase for off-premise consumption, liquor produced by such operator. Such premises need not be attached to the manufacturing facility.

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14. "Trially licensed manufacturer" shall mean a person not wholly owned by the Tribe for the purposes of manufacturing liquor under this Ordinance, but otherwise licensed consistent with this Ordinance and the Tribe for the purposes of manufacturing liquor.

15. "Trially owned manufacturer" shall mean an entity wholly owned by the Tribe for the purposes of manufacturing liquor under this Chapter.

16. "Wine" means any fermented vinous liquor or fruit juice, or other fermented beverage fit for beverage purposes that is not a beer, containing more than one-half of one percent of alcohol by volume and not more than twenty-one percent of alcohol by volume. "Wine" includes fortified wine. "Wine" does not include cider.

17. "Winemaker" means the person operating a licensed commercial winery on Tribal lands.

18. "Winery" means a facility licensed to produce wine on Tribal lands, including the production, blending, bottling, canning, kegging, packaging, distribution or retail sales of wine or cider on Tribal lands.

19. Whenever the words "sell" or "to sell" refer to anything forbidden by this Chapter and related to alcoholic beverage, they include:

- (a) To solicit or receive an order
- (b) To keep or expose for sale
- (c) To deliver for value or in any way other than purely gratuitously
- (d) To peddle
- (e) To keep with intent to sell
- (f) To traffic in, or
- (g) To engage in a transaction for any consideration or promise obtained directly or indirectly under any pretext or by any means or to procure or allow to be procured for any other person. The word "sale" includes every act of selling as defined in subsection (18) of this section.

200.150 Civil Violation.

In addition to being grounds for revocation of a license and any prosecution under federal law, any of the following shall be a civil violation prosecutable under CITC Chapter 650, unless they are otherwise authorized by this Ordinance:

1. For any person to sell, trade or manufacture any alcoholic beverage on the Coquille Indian Reservation except as provided for in this Ordinance.
2. For any business establishment or person on the Coquille Indian Reservation to possess, transport or keep with intent to sell, barter or trade to another, any liquor, except for those commercial liquor establishments on the Coquille Indian Reservation licensed by the Tribe,

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provided, however, that a person may transport liquor from a licensed establishment consistent with the terms of the license. The prohibition in this Section 200.150(2) does not prohibit a person over the age of 21 from manufacturing, possessing, or consuming homemade beer, wine, or fermented fruit juice in a household on the Coquille Indian Reservation.

3. For any person to consume alcoholic beverage on a public highway, provided that no such restriction shall apply to the service or consumption of alcoholic beverages by a passenger in a motor vehicle operated by or for a Tribal enterprise carrying consumers of legal drinking age to or from a tribal government or tribal enterprise-operated casino, hotel, restaurant or venue. Any Tribal enterprise operating a motor vehicle under the exception to prohibition provided in this Section 200.150(3) must be a common carrier.

4. For any person to publicly consume any alcoholic beverage at any community function, or at or near any place of business, Indian celebration grounds, recreational areas, including ballparks, and public camping areas, Tribal government facilities, Coquille Indian Housing Authority facilities, and any other public area where minors gather for meetings or recreation, except within a tribally licensed establishment where alcohol is sold. For purposes of this Section 200.150(4), "public camping areas" does not include commercial RV parks.

5. For any person under the age of 21 years to buy, attempt to buy or to misrepresent their age in attempting to buy, alcoholic beverage.

6. For any person under the age of 21 years to transport, possess or consume any alcoholic beverage, or to be under the influence of alcohol or to be at an established commercial liquor establishment, except as authorized under this Ordinance.

7. For any person to sell or furnish alcoholic beverage to any person under 21 years of age.

8. For alcoholic beverages be given as a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of any kind.

200.200 Licensing Procedure

1. Requests for a license under this Ordinance must be presented to the Tribal Council or its authorized designee at least 30 days prior to the requested effective date. The Tribe shall set license conditions at least as strict as those required by federal law, including at a minimum:

- (a) Alcoholic beverages may only be served and handled in a manner no less strict than allowed under Oregon Revised Statutes Chapter 471.
- (b) Alcoholic beverages may be served only by authorized employees of the licensee;
and
- (c) Alcoholic beverages may be served in rooms where gambling is taking place if authorized by Tribal Council resolution.

2. Tribal Council action on a license request must be taken at a regular or special meeting.

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3. Unless the request is for a special event license, the Tribal Council shall give at least 14 days' notice of the meeting at which the request will be considered. Notice shall be posted at the Tribal government administration building and at the establishment requesting the license, and will be sent by Certified Mail to the Oregon Liquor Control Commission.
4. The Tribal Council may revoke a license for reasonable cause upon notice and hearing at which the licensee is given an opportunity to respond to any charges against it and to demonstrate why the license should not be suspended or revoked.
5. Licenses issued by the Tribe shall not be transferable any may only be utilized by the person in whose name it was issued.
6. Notwithstanding Subchapter 200.200(1), the Tribe may include conditions, restrictions, or additional rights in a manufacturer license issued under Section 200.360, including the right to import distilled spirits for manufacture, consistent with the requirements of federal and state law.

200.300 Sale or Service of Liquor by Licensee's Minor Employees

1. The holder of a license issued under this Ordinance or Oregon Revised Statutes Chapter 471 may employ persons 18, 19 and 20 years of age who may take orders for, serve and sell alcoholic beverage in any part of the licensed premises when that activity is incidental to the serving of food except that no employee under the age of 21 may do so in those areas classified by the Oregon Liquor and Cannabis Commission ("OLCC") as being prohibited to the use of minors. No person who is 18, 19 or 20 years of age shall be permitted to mix, pour or draw alcoholic beverage except when pouring is done as a service to the patron at the patron's table or drawing is done in a portion of the premises not prohibited to minors.
2. Except as stated in this section, it shall be unlawful to employ any person under the age of 21 years to work in connection with the sale and service of alcoholic beverages in a tribally licensed liquor establishment.

200.350 Memorandums of Understanding with the State of Oregon regarding Certain Liquor Licensing and Regulation.

1. Notwithstanding any other provision of this Ordinance, the Tribe hereby authorizes and ratifies the negotiation and execution of the September 1, 2004 document entitled Memorandum of Understanding Governing Liquor Licensing and Regulation (the "MOU") between the Tribe and the State of Oregon, as amended or replaced from time to time, and this authorization and ratification shall be retroactive to September 1, 2004. Moreover, with regard to the sale of alcoholic beverage at an establishment described in the MOU any provision of this Ordinance shall yield to a conflicting provision of the MOU.
2. Notwithstanding any other provision of this Ordinance, the sale of alcoholic beverages by the Tribe or an entity owned by the Tribe or a subsidiary thereof at an establishment described in the MOU (or other agreement with the State of Oregon) shall be governed

exclusively by the terms of the MOU or other agreement with the State of Oregon, as applicable.

3. Nothing in this Ordinance is intended to limit the authority of the Tribe, from time to time, to enter into agreements with the State of Oregon without further need to authorize or ratify under this Ordinance. Without limiting the foregoing, the Tribe further authorizes and ratifies the negotiation and execution of Intergovernmental Agreement between the Tribe and State of Oregon, as amended from time to time, concerning distilled spirits production and sales.

200.360 Manufacturing of Alcohol and Related Activities; Licenses

No Tribal license may be issued for the manufacture of liquor unless the operator provides sufficient evidence demonstrating that the manufacturer and any operator possesses, or is in the process of securing, any federal permit or approval and any State of Oregon agreement and license(s) as required to operate such liquor manufacture. The Tribe shall have sole authority to determine if such are satisfied. Tribally licensed manufacturers may manufacture and distribute liquor in a manner consistent with federal and state laws and applicable agreements between the Tribe and OLCC. The following license types are hereby created and authorized for issuance to manufacturers:

1. Distillery License: required for distilleries to be operated on Tribal land for the purposes of manufacturing distilled spirits, for sales of such spirits to consumers, and for other related purposes consistent with this Ordinance. Such license may authorize on Tribal lands a related Tasting Room, and warehousing space, that may or may not be attached to the manufacturing facility, for the purpose of serving and selling spirits manufactured to consumers.

2. Brewery License: required for breweries to be operated on Tribal land for the purposes of manufacturing beer, for sale to consumers, and for other related purposes. Such license may authorize on Tribal lands a related retail sales outlet or tasting room, and warehousing space, that may or may not be attached to the manufacturing facility, for the purpose of serving and selling beer manufactured to consumers.

3. Winery License: required for wineries to be operated on Tribal land for the purposes of manufacturing wine, mead or cider, for sale to consumers, and for other related purposes. Such license may authorize on Tribal lands a related retail sales outlet or tasting room, and warehousing space, that may or may not be attached to the manufacturing facility, for the purpose of serving and selling wine, mead or cider manufactured to consumers.

200.400 Warning Signs Required

1. Any person in possession of a valid retail liquor license, who sells liquor by the drink for consumption on the premises or sells for consumption off the premises, shall post a sign informing the public of the effects and risks of alcohol consumption during pregnancy as required under this section.

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2. The sign shall:
- (a) Contain the message: "Pregnancy and alcohol do not mix. Drinking alcoholic beverages, including wine, coolers and beer, during pregnancy can cause birth defects."
 - (b) Be either:
 - (1) A large sign, no smaller than eight and one-half inches by 11 inches in size with lettering no smaller than five-eighths of an inch in height; or
 - (2) A reduced sign, five by seven inches in size with lettering of the same proportion as the large sign described in paragraph (1) of this subsection.
 - (c) Contain a graphic depiction of the message to assist nonreaders in understanding the message. The depiction of a pregnant female shall be universal and shall not reflect a specific race or culture.
 - (d) Be in English unless a significant number of the patrons of the retail premises use a language other than English as a primary language. In such cases, the sign shall be worded both in English and the primary language or languages of the patrons.
 - (e) Be displayed on the premises of all licensed retail liquor premises as either a large sign at the point of entry, or a reduced sized sign at points of sale.

200.500 Violations of this Ordinance

1. Any person who violates the provisions of this Ordinance is deemed to have consented to the jurisdiction of the Tribal Court and may be subject to a civil penalty in Tribal Court for a civil violation. Such civil penalty shall not exceed the sums described in CITC Chapter 650.
2. Such civil violations shall be prosecuted under the procedures set forth in CITC Chapter 650.

200.550 Administration

The Tribe's executive director is responsible for the administration of this Ordinance. The executive director may establish reasonable rules and regulations necessary or appropriate to carry out the purpose and intent of this Ordinance. Violations of any rules and/or regulations established by the executive director pursuant to this Ordinance will be subject to enforcement as provided under this Ordinance. No person may violate or fail to comply with any rule or regulation established by the executive director or willfully make any false or misleading statement to the executive director regarding information relevant to the issuance of a license.

200.600 Severability

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

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200.700 Compliance with 18 U.S.C. 1161

The Tribe will comply with Oregon Liquor Laws to the extent required by 18 U.S.C. 1161.

200.800 Effective Date

This Ordinance shall be effective upon publication in the Federal Register after approval by the Secretary of the Interior or his designee.

200.900 Sovereign Immunity

Nothing in this Ordinance waives the sovereign immunity of the Coquille Indian Tribe or any of its officers, directors or employees.

History of Amendments to Chapter 200 Liquor Control Ordinance:5/9/95

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