

and any other rights-of-way or reservations of record.

Dated: March 20, 2007.

**Michael D. Olsen,**

*Principal Deputy Assistant Secretary—Indian Affairs.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Buena Vista Rancheria of Me-Wuk Indians Liquor Control Ordinance

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

**ACTION:** Notice.

**SUMMARY:** This notice publishes the Buena Vista Rancheria of Me-Wuk Indians Liquor Control Ordinance. The Ordinance regulates and controls the possession, sale and consumption of liquor within the Buena Vista Rancheria of Me-Wuk Indian's tribal land. The tribal land is located on trust land and this Ordinance allows for the possession and sale of alcoholic beverages within the exterior boundaries. This Ordinance will increase the ability of the tribal government to control the distribution and possession of liquor within their tribal land strengthen the tribal government. At the same time, it will provide an important source of revenue and the improve delivery of tribal services.

**DATES:** *Effective Date:* This Ordinance is effective April 2, 2007.

**FOR FURTHER INFORMATION CONTACT:** Fred Doka Jr., Tribal Operations Officer, Pacific Regional Office, 2800 Cottage Way, Sacramento, CA 95825, Telephone (916) 978-6067; or Ralph Gonzales, Office of Tribal Services, 1849 C Street, NW., Mail Stop 4513-MIB, Washington, DC 20240; Telephone (202) 513-7629; 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 Buena Vista Rancheria of Me-Wuk Indians Tribal Council adopted this Liquor Control Ordinance by Resolution No. 06-0017 on September 13, 2006. The purpose of this Ordinance is to govern the sale, possession and distribution of alcohol within the Buena

Vista Rancheria of Me-Wuk Indians Tribal land.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Principal Deputy Assistant Secretary—Indian Affairs. I certify that this Liquor Control Ordinance of the Buena Vista Rancheria of Me-Wuk Indians was duly adopted by the Tribal Council on September 13, 2006.

Dated: March 22, 2007.

**Michael D. Olsen,**

*Principal Deputy Assistant Secretary—Indian Affairs.*

The Buena Vista Rancheria of Me-Wuk Indians Liquor Control Ordinance reads as follows:

#### Liquor Ordinance of the Buena Vista Rancheria of Me-Wuk Indians Ordinance No. 05-0001

##### Chapter I—Introduction

Section 1.1. *Title.* This ordinance shall be known as the “Liquor Ordinance of the Buena Vista Rancheria of Me-Wuk Indians.”

Section 1.2. *Authority.* This ordinance is enacted pursuant to the Act of August 15, 1953 (Pub. L. 83-277, 67 Stat. 586, 18 U.S.C. 1161) and the Constitution of the Buena Vista Rancheria of Me-Wuk Indians (“Buena Vista Constitution”).

Section 1.3. *Purpose.* The purpose of this ordinance is to regulate and control the possession and sale of liquor on the Buena Vista Rancheria of Me-Wuk Indians (“Buena Vista Rancheria” or “Tribe”). The enactment of a tribal ordinance governing liquor possession and sale on the Rancheria Land will increase the ability of the Tribal government to control Tribal 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 the tribal government services.

##### Chapter II—Definitions

Section 2.1. As used in this ordinance, the following words shall have the following meanings unless the context clearly requires otherwise.

Section 2.2. “*Alcohol*” means that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilution of this substance.

Section 2.3. “*Alcoholic Beverage*” is synonymous with the term “Liquor” as defined in Section 2.7 of this Chapter.

Section 2.4. “*Bar*” means any establishment with special space and

accommodations for sale by the glass, can or bottle and for consumption on the licensed premises of liquor, as herein defined.

Section 2.5. “*Beer*” means any beverage obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain of cereal in pure water containing not more than four percent of alcohol by volume. For the purposes of this section, any such beverage, including ale, stout, and porter, containing more than four percent of alcohol by weight shall be referred to as “strong beer.”

Section 2.6. “*Licensed Premises*” means any store at which liquor is sold and, for the purposes of this ordinance, includes stores only a portion of which are devoted to sale of liquor or beer, any bar, or any public place designated by the Tribe as a licensed premises for the sale of alcoholic beverages.

Section 2.7. “*Liquor*” includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented spirituous, vinous, or malt liquor or combination thereof, and mixed liquor, or otherwise intoxicating; and every liquor or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine and beer, and all drinks or drinkable liquids and all preparations or mixtures capable of all human consumption and any liquid, semisolid, solid, or other substances, which contain more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.

Section 2.8. “*Malt Liquor*” means beer, strong beer, ale stout, and porter.

Section 2.9. “*Package*” means any container or receptacle used for holding liquor.

Section 2.10. “*Public Place*” includes tribal roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; soft drink establishment, public buildings, public meeting halls, lobbies, halls and dining room of hotels, restaurants, theater, gaming facilities, entertainment centers, store garages, and filing stations which are open to and/or are generally used by the public and to which the public is permitted to have unrestricted access; public conveyances of all kinds of character; and all other places of like or similar nature to which the general public has unrestricted right to access, and which are generally used by the public. For the purposes of this ordinance, “Public Place” shall also include any premises other than a single family home which is designed for or

may be used by more than just the owner of the establishment.

Section 2.11. "*Rancheria Land*" means aboriginal land of the Tribe consisting of approximately 67 acres located at 4650 Coal Mine Road in Ione, California (see also Section 2.15, Tribal Land).

Section 2.12. "*Sale*" and "*Sell*" include exchange, barter, and traffic; and also include the selling or supplying or distributing by any means whatsoever, or liquor, or of any liquid known or described as beer or by any name whatsoever commonly used to describe malt or brewed liquor or wine by any person to any person.

Section 2.13. "*Spirits*" mean any beverage, which contains alcohol obtained by distillation, including wines exceeding 17 percent (17%) of alcohol by weight.

Section 2.14. "*Tribal Council*" means the Tribal Council of the Buena Vista Rancheria of Me-Wuk Indians.

Section 2.15. "*Tribal Land*" means any land within the exterior boundaries of the Rancheria Land which is either held by the Tribe or held in trust by the United States for the Tribe as a whole, including such land leased to other parties.

Section 2.16. "*Tribe*" means the Buena Vista Rancheria of Me-Wuk Indians, a federally recognized Indian tribe.

Section 2.17. "*Wine*" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, etc.) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, containing not more than 17 percent of alcohol by weight, including sweet wines fortified with wine spirits such as port, sherry, muscatel, and angelica, not exceeding 17 percent of alcohol by weight.

Section 2.18. "*Trust Account*" means the account designated by the Tribal Council for deposit of proceeds from the tax from the sale of alcoholic beverages.

Section 2.19. "*Trust Agent*" means the Tribal Chairperson or designee of the Chairperson.

#### Chapter III—Powers of Enforcement

Section 3.1. *Powers*. The Tribal Council, in furtherance of this ordinance, shall have the following powers and duties:

(a) To publish and enforce the rules and regulations governing the sale, manufacture, and distribution of alcoholic beverages on the Rancheria Land;

(b) To employ managers, accountants, security personnel, inspectors, and such

other persons as shall be reasonably necessary to allow the Tribal Council to perform its functions:

(c) To issue licenses permitting the sale or manufacture or distribution of liquor on the Rancheria Land;

(d) To hold hearings on violations of this ordinance or for the issuance or revocation of licenses hereunder;

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

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

(g) To make such reports as it deems necessary to inform Tribal members; and

(h) To collect taxes and fees levied or set by the Tribal Council and to keep accurate records, books, and accounts.

Section 3.2. *Limitation on Powers*. In the exercise of its powers and duties under this ordinance, the Tribal Council and its individual members shall not accept any gratuity, compensation or other thing of value from any liquor wholesaler, retailer, or distributor or from any licensee.

Section 3.3. *Inspection Rights*. The licensed premises on which liquor is sold or distributed shall be open for inspection by the Tribal Council or its designee at all reasonable times for the purposes of ascertaining whether the rules and regulations of this ordinance are being complied with.

#### Chapter IV—Sales of Liquor

Section 4.1. *Licenses Required*. No sales of alcoholic beverages shall be made on Tribal Land, except at a licensed premises.

Section 4.2. *Sales Only on Tribal Land*. All liquor sales within the exterior boundaries of the Rancheria Land shall be on Tribal Land, including leases thereon.

Section 4.3. *Sales for Cash*. All liquor sales on Tribal Land 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 such as Visa, American Express, etcetera.

Section 4.4. *Sales for Personal Consumption*. All liquor sales shall be for the personal use and consumption of the purchaser. Resale of any alcoholic beverage purchased on Tribal Land is prohibited. Any person who is not licensed pursuant to this ordinance and who purchases an alcoholic beverage on Tribal Land and sells it, whether in the original container or not, shall be guilty of a violation of this ordinance and shall be subject to penalties as set forth herein.

#### Chapter V—Licensing

Section 5.1. *Application for Tribal Liquor License Requirements*. No Tribal license shall be issued under this ordinance except upon a sworn application filed with the Tribal Council containing a full and complete showing of the following:

(a) Satisfactory proof that the applicant is or will be duly licensed by the State of California.

(b) Satisfactory proof that the applicant is of good character and reputation among the people of the Tribe and that the applicant is financially responsible.

(c) A description of the premises on which the intoxicating beverages are to be sold and proof that the applicant is the owner or lessee of such premises for at least the term of the license.

(d) An agreement by the applicant to accept and abide by all conditions of the Tribal license.

(e) Payment of three hundred fifty dollar (\$350.00) fee as prescribed by the Tribal Council.

(f) Satisfactory proof that neither the applicant nor the applicant's spouse has ever been convicted of a felony.

(g) 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 thirty (30) days prior to consideration by the Tribal Council, and that the notice has been published at least twice in a local newspaper, authorized by the Tribal Chairperson or Secretary, which serves the community that may be affected by the license. The notice shall state the date, time and place when the application shall be considered by the Tribal Council pursuant to Section 5.2 of this ordinance.

Section 5.2. *Hearing on Application for Tribal Liquor License*. All applications for a Tribal liquor license shall be considered by the Tribal Council in open session at which the applicant, his 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 shall determine whether to grant or deny the application based on:

(1) Whether the requirements of Section 5.1 have been met; and

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

In the event that the applicant is a member of the Tribal Council, or a member of the immediate family of a

Tribal Council member, such member shall not vote on the application or participate in the hearing as a Tribal Council member.

Section 5.3. *Temporary Permits.* The Tribal Council or its designee may grant a temporary permit for the sale of alcoholic beverages for a period not to exceed three (3) days to any person applying for the same in connection with a Tribal or community activity, provided, that the condition prescribed in Section 5.4 of this ordinance shall be observed by the permittee. Each permit issued shall specify the types of alcoholic beverages to be sold. Further, a fee of thirty-five dollars (\$35.00) will be assessed on temporary permits.

Section 5.4. *Conditions of the Tribal License.* Any Tribal license issued under this title shall be subject to such reasonable conditions as the Tribal Council shall fix, including, but not limited to the following:

(a) The license shall be for a term not to exceed one (1) year.

(b) The license shall at all times maintain an orderly, clean and neat establishment, both inside and outside licensed premises.

(c) The State of California shall have jurisdiction over offenses and civil causes of action committed in the licensed premises to the same extent that it has jurisdiction over offenses and civil causes of action committed elsewhere within California, and California criminal laws, and civil laws of general applicability to private persons or private property, shall have the same force and effect on the licensed premises as they have elsewhere in California.

(d) The licensed premises shall be subject to patrol by the Tribal enforcement department, and such other law enforcement officials as may be authorized under federal, California, or Tribal law.

(e) The licensed premises shall be open to inspection by duly authorized Tribal officials at all times during the regular business hours.

(f) Subject to the provisions of subsection (g) of this section, no alcoholic beverages shall be sold, served, disposed of, delivered or consumed on the licensed premises except in conformity with the hours and days prescribed by the laws of the State of California, and the licensed premises shall not operate or open earlier or operate or close later than is permitted by the laws of the State of California.

(g) No liquor shall be sold within two hundred (200) feet of a polling place on Tribal election days or when a referendum is held of the people of the Tribe, or at prescribed locations on

special days of observation as designation by the Tribal Council.

(h) All acts and transactions under the authority of the Tribal liquor license shall be in conformity with the laws of the State of California, and shall be in accordance with this ordinance and any Tribal license issued pursuant to this ordinance.

(i) No person under the age permitted under the laws of the State of California shall be sold, served, delivered, given, or allowed to consume alcoholic beverages in the licensed establishment under and/or area.

(j) There shall be no discrimination in any operations under a Tribal license by reason of race, color, or creed.

Section 5.5. *License Not a Property.* Notwithstanding any other provision of this ordinance, 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 a vested right of any kind, nor shall the granting of a Tribal liquor license give rise to a presumption of legal entitlement to the granting of such license for a subsequent time period.

Section 5.6. *Assignment or Transfer.* No Tribal license issued under this ordinance shall be assigned or transferred without the written approval of the Tribal Council, expressed by formal resolution.

#### *Chapter VI—Rules, Regulations, and Enforcement*

Section 6.1. *Sales or Possession With Intent to Sell Without a License.* Any person who sells or offers for sale or distributes or transports in any manner, any liquor in violation of this ordinance, or who operates or possesses liquor with intent to sell or distribute without a Tribal liquor license, shall be guilty of a violation of this ordinance.

Section 6.2. *Purchases From Non-Licensed Premises.* Any person who buys liquor on Tribal Land from any person at premises that are not properly licensed shall be guilty of a violation of this ordinance.

Section 6.3. *Sales to Intoxicated Persons.* Any person who knowingly sells liquor to a person under the influence of alcoholic beverages to the extent that control of the person's faculties is impaired shall be guilty of a violation of this ordinance.

Section 6.4. *Consuming Liquor in Public Conveyance.* Any person engaged wholly or in part in the public conveyance business of carrying passengers for hire, and every agent, servant or employee or such person, who knowingly permits any person to drink any liquor in any vehicle that carries passengers for hire, while such

vehicle is on Tribal land, shall be guilty of a violation of this ordinance. Any person who drinks any liquor in any vehicle that carries passengers for hire, while such vehicle is on Tribal land, shall be guilty of a violation of this ordinance.

Section 6.5. *Consumption or Possession of Liquor by Persons Under 21 Years of Age.* No person under the age of twenty-one (21) years in any licensed premises shall consume, acquire or have in his possession any alcoholic beverage. No person shall permit any other person under the age of twenty-one (21) to consume liquor on any licensed premises under his/her control. Any person violating this section shall be guilty of a separate violation of this ordinance for each and every alcoholic beverage so consumed, acquired or possessed.

Section 6.6. *Sales of Liquor to Persons Under 21 Years of Age.* Any person who sells or provides liquor to any person under the age of twenty-one (21) years in any licensed premises shall be guilty of a violation of this ordinance for each and every sale or alcoholic beverage provided.

Section 6.7. *Transfer of Identification to Persons Under 21 Years of Age.* Any person who transfers, in any manner, an identification of age to any person under the age of twenty-one (21) years for the purpose of permitting such underage person to obtain liquor from a licensed premises shall be guilty of an offense, provided, that corroborative testimony of a witness other than the underage person shall be a requirement of finding a violation of this ordinance.

Section 6.8. *Use of False or Altered Identification.* Any person who attempts to purchase an alcoholic beverage at any licensed premises through the use of false or altered identification, which falsely purports to show the person to be over the age of twenty-one (21) years, shall be guilty of violating this ordinance.

Section 6.9. *Violations of This Ordinance.* Any person found guilty of a violation of this ordinance shall be subject to a penalty not to exceed five-hundred dollars (\$500.00) per violation, payable to the Tribe as civil damages to defray the Tribe's cost of enforcement of this ordinance. In addition to any penalties so imposed, any license issued hereunder may be suspended or revoked by the Tribal Council after ten (10) days notice to the licensee. Any decisions of the Tribal Council regarding the enforcement of this ordinance are final.

Section 6.10. *Acceptable Identification.* Where there is a question as to whether a person is a lawful age to purchase liquor, that person shall be

required to present any one of the following forms of identification, which is effective and shows the person's correct age, signature and photograph:

- (1) Driver's license or identification card issued by any state within the United States of America;
- (2) United States Active Duty Military Identification card; or
- (3) Valid Passport.

Section 6.11. *Possession of Liquor Contrary to This Ordinance.* Alcoholic beverages which are possessed contrary to the terms of this ordinance are declared to be contraband. Any Tribal agent, employee, or officer who is authorized by the Tribal Council to enforce this ordinance shall have the authority to seize all contraband.

Section 6.12. *Disposition of Seized Contraband.* Any Tribal agent, employee or officer seizing contraband under Section 6.11 shall preserve the contraband in accordance with applicable California law. Any person found in violation of this ordinance by the Tribal Council shall forfeit all right, title and interest in the items seized, which shall become the property of the Tribe.

#### *Chapter VII—Taxes*

Section 7.1. *Sales Tax.* There is hereby levied and shall be collected a tax on each sale of alcoholic beverages on Tribal Land in the amount of one percent (1%) of the sale price. The tax imposed by this section shall apply to all retail sales of liquor on Tribal Land and, with respect to sales by the Tribe and/or Tribal members, shall preempt any tax imposed on such liquor sales by the State of California.

Section 7.2. *Payments of Taxes to Tribe.* All taxes from the sale of alcoholic beverages on Tribal Land shall be paid over to the trust agent of the Tribe.

Section 7.3. *Taxes Due.* All taxes for the sale of alcoholic beverages on Tribal Land shall be due and owing to the Tribe within thirty (30) days of the end of the calendar quarter for which the taxes are due.

Section 7.4. *Reports.* Along with payment of the taxes imposed herein, the taxpayer shall submit an accounting for the quarter of all income from the sale or distribution of alcoholic beverages, as well as for the taxes collected.

Section 7.5. *Audit.* As a condition of obtaining a Tribal liquor license, the licensee must agree to a review or an audit of its books and records relating to the sale of alcoholic beverages on Tribal Land. Said review or audit may be done annually by the Tribe through its agents or employees whenever, in the opinion

of the Tribal Council, such a review or audit is necessary to verify accuracy of reports.

#### *Chapter VIII—Profits*

Section 8.1. *Disposition of Proceeds.* The gross proceeds collected by the Tribe from all licensing and taxation of the sale of alcoholic beverages on Tribal Land shall be used and distributed for the payment of all necessary personnel, administrative costs, and legal fees for Tribal liquor ordinance operations and activities, and the remainder shall be deposited in the Trust Account of the Tribe.

#### *Chapter IX—Severability and Miscellaneous*

Section 9.1. *Severability.* If any provision or application of this ordinance is determined by review to be invalid, such determination shall not be held to render ineffective the remaining portions of this ordinance, nor shall such determination be held to render valid provisions of this ordinance that are inapplicable to other persons or circumstances.

Section 9.2. *Prior Enactments.* All prior enactments of the Tribal Council that are inconsistent with the provisions of this ordinance are hereby rescinded.

Section 9.3. *Conformance with California Laws.* All acts and "transactions" under this ordinance shall be in conformity with the laws of the State of California as that term is used in 18 U.S.C. 1161.

Section 9.4. *Effective Date.* This ordinance shall be effective on such date as the Secretary of the Interior certifies this ordinance and publishes the same in the **Federal Register**.

#### *Chapter X—Amendment*

Section 10.1. This ordinance may only be amended by a majority vote of the Tribal Council.

#### *Chapter XI—Sovereign Immunity*

Section 11.1. Nothing contained in this ordinance is intended to, nor does it in any way limit, alter, restrict, or waive the Tribe's sovereign immunity from unconsented suit or action.

#### **Certification**

We, the undersigned duly elected official(s) of the Buena Vista Rancheria, do hereby certify under penalty of perjury that on September 13, 2006, the foregoing Ordinance was adopted at a duly called meeting of the Tribal Council with a quorum present by a vote of: 1 for, 0 against, and 0 abstaining.

Rhonda L. Morningstar Pope, Date: 09/20/2006, Tribal Chairperson.

*Attested By:* Monica Duran, Date: 09/20/2006, Council Support Secretary.

[FR Doc. E7-5962 Filed 3-30-07; 8:45 am]

BILLING CODE 4310-4J-P

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### **Chickasaw Nation Liquor Control Ordinance**

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

**ACTION:** Notice.

**SUMMARY:** This notice publishes the Liquor Control Ordinance of the Chickasaw Nation of Oklahoma (Tribe). The Ordinance regulates and controls the possession, sale and consumption of liquor within the tribal lands of the Tribe. The tribal lands are located in Indian country and this Ordinance allows for possession and sale of alcoholic beverages within their exterior boundaries. This Ordinance will increase the ability of the tribal government to control the community'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 on April 2, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Charles Head, Tribal Government Services Officer, Eastern Oklahoma Regional Office, 3100 W. Peak Blvd., Muskogee, OK 74402, Telephone: (918) 781-4685, Fax (918) 781-4649; or Ralph Gonzales, Office of Tribal Services, 1849 C Street, NW., Mail Stop 4513-MIB, Washington, DC 20240, Telephone: (202) 513-7629.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Act of August 15, 1953, Pub. L. 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 Chickasaw Tribal Legislature (Legislature) adopted its Liquor Ordinance by Resolution No. 24-001 on October 20, 2006, and amended it by Resolution No. 24-003 on December 15, 2006 to conform to state law. This Liquor Ordinance will be the first published in the **Federal Register** for the Tribe. The purpose of this Ordinance is to govern the sale, possession and distribution of alcohol within tribal lands of the Tribe.