



4337-15-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

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Pueblo of Santa Ana Title 10 – Licensing & Regulation, Chapter 1 – Liquor Code (Chapter)

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the amendment to the Pueblo of Santa Ana’s Title 10 – Licensing & Regulation, Chapter 1 – Liquor Code (Chapter). This Chapter amends the existing Chapter 1- Liquor Code, Section 126, enacted by the Pueblo of Santa Ana Tribal Council, which was published in the Federal Register on April 7, 2006 (71 FR 17903).

DATES: Effective Date: This code shall become effective on [Insert date 30 days after publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Mattingly , Tribal Government Services Officer, Southwest Regional Office, Bureau of Indian Affairs, 1001 Indian School Road, NW, Albuquerque, NM 87104-2303, Phone: (505) 536-3100; Fax: (505) 563-3101: or Ms. Laurel Iron Cloud, Chief, Division of Tribal Government Services, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street NW, MS-4513-MIB, Washington, DC 20240; Telephone (202) 513-7641.

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 Pueblo of Santa Ana Tribal Council of the Pueblo of Santa Ana adopted the amendments to the Pueblo's Title 10 – Licensing & Regulation, Chapter 1 – Liquor Code (Chapter), Section 126, by Resolution NO. 2015-R-09 on June 11, 2015. This Federal Register notice amends and supersedes the Pueblo of Santa Ana Liquor Ordinance, enacted by the Pueblo of Santa Ana Tribal Council, which was last published on April 7, 2006 (71 FR 17903).

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 the Pueblo of Santa Ana Council of the Pueblo of Santa Ana duly adopted this amendment to the Pueblo's Title 10 – Licensing & Regulation, Chapter 1 – Liquor Code (Chapter) by Resolution NO. 2015-R-09 on June 11, 2015.

Dated: August 31, 2015

Kevin K. Washburn,
Assistant Secretary - Indian Affairs.

Section 126 Pueblo of Santa Ana Liquor Code shall read as follows:

**PUEBLO OF SANTA ANA TRIBAL CODE
TITLE 10: LICENSING & REGULATION
Chapter One: LIQUOR CODE
Subchapter One: General Provisions.**

Section 101: FINDINGS.

The Tribal Council finds as follows:

A. The introduction, possession and sale of alcoholic beverages on the Santa Ana Indian Reservation has, for a long time, been clearly recognized as a matter of special concern to the Pueblo and its members and to the United States; and

B. Under federal law and New Mexico state law, and as a matter of inherent Tribal sovereignty, the question of when and to what extent alcoholic beverages may be introduced into and sold or consumed within the Santa Ana Indian Reservation is to be decided by the governing body of the Tribe; and

C. It is desirable that the Tribal Council legislate comprehensively on the subject of the sale and possession of alcoholic beverages within the Santa Ana Indian Reservation, both to establish a consistent and reasonable Tribal policy on this important subject, as well as to facilitate economic development projects within the Santa Ana Indian Reservation that may involve outlets for the sale and consumption of alcoholic beverages; and

D. It is the policy of the Tribal Council that the introduction, sale and consumption of alcoholic beverages within the Santa Ana Indian Reservation be carefully regulated so as to protect the public health, safety and welfare, and that licensees be made fully accountable for violations of conditions of their licenses and the consequences thereof.

Section 102: DEFINITIONS.

As used in this Chapter, the following words shall have the following meanings:

- A. "Council" means the Tribal Council of the Pueblo of Santa Ana.
- B. "Development Area" means those lands within the Santa Ana Indian Reservation and that are situated west of the Rio Grande and south of the Rio Jemez, but not including any lands within the boundaries of the Santa Ana Pueblo Grant as confirmed by Congress by the Act of February 9, 1869, c. 26, 15 Stat. 438 (provided however, that if such term is more specifically defined in a planning or zoning statute or ordinance adopted by the Tribal Council, or in any regulations issued under the authority of any such duly adopted planning or zoning statute or ordinance, such definition shall supersede and control the definition of such term set forth herein).
- C. "Governor" means the Governor of the Pueblo of Santa Ana.
- D. "Licensed Premises" means the location within the Santa Ana Indian Reservation at which a licensee is permitted to sell and allow the consumption of alcoholic beverages, and may, if requested by the applicant and approved by the Governor, include any related or associated facilities under the control of the licensee, or within which the licensee is otherwise authorized to conduct business (but subject to any conditions or limitations as to sales within such area that may be imposed by the Governor in issuance of the license).
- E. "Licensee" means a person or entity that has been issued a license to sell alcoholic beverages on the licensed premises under the provision of this Liquor Code.
- F. "Liquor" or "Alcoholic Beverage" includes the four varieties of liquor commonly referred to as alcohol, spirits, wine and beer, and all fermented, spirituous, vinous or malt liquors or combinations thereof, mixed liquor, any part of which is fermented, spirituous, vinous, or malt

liquor, or any otherwise intoxicating liquid, including every liquid or solid or semi-solid or other substance, patented or not, containing alcohol, spirits, wine or beer and intended for oral consumption.

G. "Liquor Code" means the Santa Ana Pueblo Liquor Code, this Chapter.

H. "Person" means any natural person, partnership, corporation, joint venture, association, or other legal entity.

I. "Pueblo" or "Tribe" means the Pueblo of Santa Ana.

J. "Sale" or "sell" means any exchange, barter, or other transfer of goods from one person to another for commercial purposes, whether with or without consideration.

K. "Santa Ana Indian Reservation" means all lands within the exterior boundaries of the Santa Ana Indian Reservation, all lands within the exterior boundaries of the El Ranchito Grant and the Santa Ana Pueblo Grant, and all other lands owned by the Pueblo subject to federal law restrictions on alienation or held by the United States for the use and benefit of the Pueblo.

L. "Special Event" means a bona fide special occasion such as a fair, fiesta, show, tournament, contest, meeting, picnic or similar event within the Development Area, sponsored by an established business or organization, lasting no more than three days. A special event may be open to the public or to a designated group, and it may be a one-time event or periodic, provided, however, that such events held more than four times a year by the same business or organization may not be deemed special events for purposes of this Liquor Code, in the discretion of the Governor.

M. “Server” means an individual who sells, serves or dispenses alcoholic beverages for consumption on or off licensed premises, including persons who manage, direct or control the sale or service of alcohol.

Section 103: SOVEREIGN IMMUNITY PRESERVED.

Nothing in the Liquor Code shall be construed as a waiver or limitation of the sovereign immunity of the Pueblo.

Section 104: INITIAL COMPLIANCE.

No person shall be disqualified from being issued a license under the provisions of this Liquor Code, or shall be found to have violated any provision of this Chapter, solely because such person, having been duly authorized to engage in the sale of alcoholic beverages within the Santa Ana Indian Reservation under the law as it existed prior to enactment of this Liquor Code, continues to engage in such business without a license issued under the provisions of this Liquor Code after the effective date hereof, so long as such person, within 90 days after such effective date (or within 30 days after receiving written notice from the Pueblo of the enactment of the Liquor Code, whichever is later) submits an application for such license in compliance with the provisions of this Liquor Code, and a license is thereafter issued in due course; provided, however, that upon the issuance of a license under the provisions of this Liquor Code to any person or entity, or upon the rejection of an application for such license by any person or entity, no license issued by the State of New Mexico or issued under the provisions of any prior law of the Pueblo that is held by such person or entity, or that purports to authorize the possession, sale or consumption of alcoholic beverages on premises covered by a license issued (or a license application rejected) under the provisions of this Liquor Code, shall have any further validity or effect within the Santa Ana Indian Reservation.

Section 105: SEVERABILITY.

In the event any provision of this Liquor Code is held invalid or unenforceable by any court of competent jurisdiction, the remainder of the Code shall continue in full force and effect, notwithstanding the invalidity or unenforceability of such provision, to the fullest extent practicable.

**Subchapter Two: Sale, Possession And Consumption
Of Alcoholic Beverages.**

Section 121: PROHIBITION.

The sale, introduction for sale, purchase, or other dealing in alcoholic beverages, except as is specifically authorized by the Liquor Code, is prohibited within the Santa Ana Indian Reservation.

Section 122: POSSESSION FOR PERSONAL USE.

Possession of alcoholic beverages for personal use shall be lawful within the Santa Ana Indian Reservation only if such alcoholic beverages were lawfully purchased from an establishment duly licensed to sell such beverages, whether on or off the Santa Ana Indian Reservation, and are possessed by a person or persons 21 years of age or older. Such possession is otherwise prohibited.

Section 123: TRANSPORTATION THROUGH RESERVATION NOT AFFECTED.

Nothing herein shall pertain to the otherwise lawful transportation of alcoholic beverages through the Santa Ana Indian Reservation by persons remaining upon public highways (or other areas paved for motor vehicles) and where such beverages are not delivered, sold at retail or offered for sale at retail to anyone within the Santa Ana Indian Reservation.

Section 124: REQUIREMENT OF PUEBLO LICENSE.

No person shall sell any alcoholic beverage within the Santa Ana Indian Reservation at retail, or offer any such beverage for sale at retail, unless such person holds a license issued by the Pueblo under the provisions of this Chapter.

Section 125: ALL SALES FOR PERSONAL USE.

No person licensed to sell alcoholic beverages within the Santa Ana Indian Reservation shall sell any such beverage for resale, but all such sales shall be for the personal use of the purchaser. Nothing herein shall prohibit a duly licensed wholesale dealer in alcoholic beverages from selling and delivering such beverages to properly licensed retailers within the Santa Ana Indian Reservation, so long as such sales and deliveries are otherwise in conformity with the laws of the State of New Mexico and this Liquor Code.

Section 126: PACKAGE SALES AND SALES OF LIQUOR BY THE DRINK PERMITTED.

Sales of alcoholic beverages on the Santa Ana Indian Reservation may be in package form or for consumption on the premises, or both, so long as the seller is properly licensed by the Pueblo to make sales of that type. No seller of alcoholic beverages shall permit any person to bring onto premises where liquor by the drink is authorized to be sold any alcoholic beverages purchased elsewhere, unless such person is otherwise licensed to possess or distribute such beverages on such premises, except that a restaurant holding a premises license may allow a customer who is ordering a meal, and who is legally entitled to consume alcoholic beverages, to bring onto the premises one or more bottles of wine that were legally acquired from a New Mexico licensed retailer or wholesaler (but not to exceed one bottle per person at the table), for consumption with such customer's meal, provided that any such bottle is opened by an employee of the restaurant who is legally entitled to serve alcoholic beverages, and the restaurant may charge a corkage fee for each such bottle opened.

Section 127: NO SALES TO MINORS.

No alcoholic beverages may be sold within the Santa Ana Indian Reservation to persons under the age of 21 years.

Section 128: HOURS AND DAYS OF SALE.

Alcoholic beverages may be sold, offered for sale or consumed on licensed premises within the Santa Ana Indian Reservation at such hours as are established by the Licensee, but provided that in no event shall any such sales or consumption occur between the hours of 2:00 a.m. and 7:00 a.m. on any day.

Section 129: *[Repealed.]*

Section 130: OTHER PROHIBITIONS ON SALES.

The Tribal Council may, by duly enacted resolution, establish other days on which or times at which sales or consumption of alcoholic beverages are not permitted within the Santa Ana Indian Reservation. The Council shall give notice of any such enactment promptly to all licensees within the Santa Ana Indian Reservation. In addition, the Governor of the Pueblo may, in the event of a bona fide emergency, and by written order, prohibit the sale of any alcoholic beverages within the Santa Ana Indian Reservation for a period of time not to exceed 48 hours. The Governor shall give prompt notice of such emergency order to all licensees within the Santa Ana Indian Reservation. No such emergency order may extend beyond 48 hours, unless during that time the Tribal Council meets and determines that the emergency requires a further extension of such order.

Section 131: LOCATION OF SALES, CONSUMPTION.

No person licensed to sell alcoholic beverages within the Santa Ana Indian Reservation shall make such sales except at the licensed premises specifically designated in such license. No

person holding a premises license shall permit consumption of alcoholic beverages purchased from such licensee to occur off of the licensed premises; except that nothing herein shall prohibit a premises licensee from permitting a customer who has purchased a bottle of wine with a meal, but only partially consumed the contents of such bottle, from taking the partially consumed bottle off of the premises, after such bottle has been recorked by the licensee and placed in a sealed bag, to which a receipt for the purchase of the bottle has been affixed.

Section 132: SALES TO BE MADE BY ADULTS.

A. No person shall be employed as a server at a licensed premises unless within 30 days after such person's employment such person has obtained alcohol server training equivalent to that required under the laws of the State of New Mexico.

B. No person shall be employed to sell, serve or accept payment for any sale of alcoholic beverages, or to oversee or direct or have any other involvement in any such sale, within the Santa Ana Indian Reservation, who is less than 21 years of age, except that a premises licensee that operates a restaurant or other facility that is held out to the public as a place where meals are prepared and served may employ persons 19 years of age or older to sell or serve alcoholic beverages to persons who are also ordering food, provided that no person under the age of 21 shall be employed as a bartender by any licensee within the Santa Ana Indian Reservation.

Section 133: ALL SALES CASH.

No licensee shall make any sale of any alcoholic beverages within the Santa Ana Indian Reservation without receiving payment therefor by cash, check, credit card, cash equivalent (such as gaming chips) or voucher issued by the licensee and specifically intended to be redeemable for alcoholic beverages, at or about the time the sale is made; provided, that nothing herein shall preclude a licensee from receiving a delivery of alcoholic beverages from a duly

authorized wholesaler where arrangements have been made to pay for such delivery at a different time; and provided further that nothing herein shall preclude a licensee from allowing a customer to purchase more than one alcoholic beverage in sequence, and to pay for all such purchases at the conclusion thereof, so long as payment is made in full before the customer has left the licensed premises; and provided further that nothing herein shall prevent a licensee from distributing alcoholic beverages to customers without charge, so long as such distribution is not otherwise in violation of any provision of this Liquor Code.

Subchapter Three: Issuance of Licenses

Section 151: REQUIREMENT OF LICENSE.

Any person who sells, offers for sale, stores or possesses for commercial purposes, or maintains premises for the consumption of alcoholic beverages within the Santa Ana Indian Reservation, must be duly licensed under the provisions of this Liquor Code.

Section 152: CLASSES OF LICENSES.

The following types or classes of licenses for the sale or distribution of alcoholic beverages within the Santa Ana Indian Reservation shall be permitted:

A. Package license, which shall authorize the licensee to store, possess, sell and offer for sale alcoholic beverages in unopened containers, or in containers that may only be opened by employees of the licensee, for consumption only off the licensed premises.

B. Premises license, which shall authorize the licensee to store, possess and sell alcoholic beverages for consumption on the licensed premises, and to permit such consumption on the licensed premises, provided that such license when held by an inn or hotel shall also permit the licensee to stock any individual guest room with alcoholic beverages contained in a compartment available to the registered guest to whom such room is rented and who is 21 years

of age or older; and provided further that a premises licensee may allow a patron who has purchased a bottle of wine with a meal, but who has not consumed all of the contents of such bottle, to leave the premises with the partially filled bottle, after the bottle has been recorked and placed in a sealed bag by the licensee, with a receipt showing the customer's payment for the bottle attached to the bag.

C. Special event license, which shall authorize the licensee to possess, distribute, sell and offer for sale alcoholic beverages for consumption only on the licensed premises, and to permit such consumption, but only for a bona fide special event, and only during the period or periods specified in such license, which period or periods shall be limited to the periods during which the special event is occurring and from beginning to end shall not exceed 72 hours.

Section 153: QUALIFICATIONS FOR LICENSE.

A. No person shall be entitled to be issued a license under the provisions of this Liquor Code who has previously been the subject of any proceeding resulting in the revocation or the denial of a renewal of any license for the sale of alcoholic beverages issued by the Pueblo or by any state or other jurisdiction, or who has been convicted of any felony in any jurisdiction involving theft, corruption, dishonesty or embezzlement, or who has not at the time the application for license is submitted attained the age of 21 years, or who is otherwise determined by the Pueblo to be unfit to be licensed to sell alcoholic beverages, or whose spouse is a person not qualified to hold a license under the provisions of this section.

B. No partnership or corporation shall be entitled to be issued a license under the provisions of this Liquor Code if any individual occupying any management or supervisory position within such corporation or partnership, or who sits on the management committee or board of directors or trustees thereof, or who holds or controls a financial interest of ten percent

or more in such partnership or corporation, is a person who would not be entitled to be issued a license under the provisions of this section.

C. No person shall be entitled to be issued a package or premises license hereunder unless such person has, by virtue of an approved lease or other valid interest in lands within the Santa Ana Indian Reservation, lawful entitlement to engage in a business within the Development Area with which such license would be compatible, and can demonstrate that such person is otherwise capable of complying with all of the requirements imposed on licensees by this Liquor Code.

D. No application for a package or premises license shall be issued for any licensed premises outside of the Development Area.

E. Notwithstanding anything in this section to the contrary, the Pueblo and its agencies, programs and enterprises shall be entitled to be issued licenses hereunder in appropriate circumstances, provided that all other provisions of this Liquor Code are complied with.

Section 154: PACKAGE AND PREMISES LICENSE APPLICATION; PROCEDURE; FEES.

A. Every person seeking a package or premises license under the provisions of this Liquor Code (other than the Pueblo or any of its agencies, programs or enterprises) shall submit to the Pueblo's Tribal Administrator, or such other person as the Governor may designate to handle such matters (hereinafter referred to as "Liquor License Administrator") a written application, under oath, in the form prescribed by and containing the information required by this section.

B. If the applicant is a natural person, the application shall contain, at a minimum, all of the following information:

1. The full legal name of the applicant, plus any other names under which the applicant has been known or done business during the previous 20 years, and the applicant's date and place of birth, as shown by a certified copy of the applicant's birth certificate.

2. The applicant's current legal residence address and business address, if any, and every residence address that the applicant has maintained during the previous ten years, with the dates during which each such address was current.

3. The trade name, business address and description of every business in which the applicant has engaged or had any interest (other than stock ownership or partnership interest amounting to less than five percent of total capital) during the previous ten years, and the dates during which the applicant engaged in or held an interest in any such business.

4. A listing of every other jurisdiction in which the applicant has ever applied for a license to sell or distribute alcoholic beverages, the date on which each such application was filed, the name of the regulatory agency with which the application was filed, the action taken on each such application, and if any such license was issued, the dates during which it remained in effect, and as to each such license a statement whether any action was ever taken by the regulatory body to suspend or revoke such license, with full dates and details of any such incident.

5. A listing of every crime with which the applicant has ever been charged, other than routine traffic offenses (but including any charge of driving while intoxicated or the like), giving as to each the date on which the charge was made, the location, the jurisdiction, the court in which the matter was heard, and the outcome or ultimate disposition thereof.

6. The name and address of every person or entity holding any security interest in any of the assets of the business to be conducted by the applicant, or in any of the proceeds of such business.

7. A detailed plat of the business premises within the Development Area, including the floor plans of any structure and the details of any exterior areas intended to be part of the licensed premises, together with evidence of the applicant's right to conduct business on such premises.

8. A detailed description of the business conducted or intended to be conducted on the licensed premises, and including (but not limited to) hours of operation and number of employees.

9. The type(s) of license(s) requested.

C. If the applicant is a corporation, the corporation, each officer of the corporation and every person holding 10% or more of the outstanding stock in the corporation shall submit an application complying with the provisions of paragraph B of this section, and in addition, the applicant shall also submit the following:

1. A certified copy of its Articles of Incorporation and Bylaws.

2. The names and addresses of all officers and directors and those stockholders owning 5% or more of the voting stock of the corporation and the amount of stock held by each such stockholder.

3. The name of the resident agent of the corporation who would be authorized to accept service of process, including orders and notices issued by the Pueblo, and who will have principal supervisory responsibility for the business to be conducted on the licensed premises.

4. Such additional information regarding the corporation as the Liquor License Administrator may require to assure a full disclosure of the corporation's structure and financial responsibility.

D. If the applicant is a partnership, the partnership, the managing partner and every partner having an interest amounting to 10% or more of the total equity interest in the partnership shall submit applicants complying with the provisions of paragraph B of this section, and in addition, the applicant shall submit the following:

1. A certified copy of the Partnership Agreement.

2. The names and addresses of all general partners and of all limited partners contributing 10% or more of the total value of contributions made to the limited partnership or who are entitled to 10% or more of any distributions of the limited partnership.

3. The name and address of the partner, or other agent of the partnership, authorized to accept service of process, including orders and notices issued by the Pueblo, and who will have principal supervisory responsibility for the business to be conducted in the licensed premises.

4. Such additional information regarding the partnership as the Liquor License Administrator may require to assure a full disclosure of the partnership's structure and financial responsibility.

E. Every applicant who is a natural person, and every person required by paragraphs C or D of this section to comply with the provisions of paragraph B, shall also submit with the application a complete set of fingerprints, taken under the supervision of and certified to by an officer of an authorized law enforcement agency located within the State of New Mexico.

F. Every applicant for either a package license or a premises license shall submit with the completed license application a non-refundable license processing fee, in the amount set forth below:

| | |
|------------------|-------------|
| Package license | \$ 5,000.00 |
| Premises license | 1,000.00 |

In addition, each applicant shall pay a fee to cover the cost of a background investigation of each individual for whom such investigation must be undertaken in connection with the application, in an amount to be set by the Liquor License Administrator from time to time.

G. Upon receiving a completed license application together with the required fee, the Liquor License Administrator shall cause a background investigation to be performed of the applicant, to determine whether the applicant is qualified to be licensed under the provisions of this Liquor Code. Upon the written recommendation of the Liquor License Administrator (if requested by the applicant), the Governor may, in his discretion, issue a preliminary license to the applicant effective for a period of no more than 90 days, but which shall be renewable for one additional period of 90 days in the event the background investigation cannot be completed within the first 90-day period; provided, however, that in no event shall the issuance of a preliminary license, or the renewal of such license for an additional 90-day period, entitle the applicant to favorable consideration with respect to the application for a package or premises license.

H. The Pueblo or any of its agencies, programs or enterprises may apply for a package or premises license by submitting an application to the Liquor License Administrator identifying the applicant, describing in detail the purpose of the license, including a detailed

description of the proposed licensed premises, and including the appropriate fee as set forth in Paragraph F of this section.

Section 155: ISSUANCE OF LICENSE.

A. The Liquor License Administrator shall, after reviewing all of the information submitted by the applicant or revealed by the background investigation, submit a report to the Governor recommending either approval or denial of the application for the license, and stating the reasons for such recommendation.

B. Upon review of the recommendation of the Liquor License Administrator, if the Governor finds that the applicant satisfies the requirements of Section 153 of this chapter, the Governor shall issue the license, authorizing the applicant to engage in sales of alcoholic beverages within the Santa Ana Indian Reservation as permitted by the class of license applied for, and specifying in detail the licensed premises where such sales are permitted (which shall be within the Development Area), but subject also to all the terms and conditions of this Liquor Code, and to such other appropriate conditions, not inconsistent with the provisions of this Liquor Code, as the Governor may deem reasonable and necessary under the circumstances.

C. In the event the Governor concludes, on the basis of the Liquor License Administrator's report, that the applicant does not satisfy the requirements of Section 153 of this chapter, the Governor shall issue a notice denying the application, and explaining the basis for such denial.

D. Any applicant whose application is denied shall have the right to appeal such denial, by filing a Notice of Appeal with the Office of the Governor and with the Santa Ana Tribal Court, within 30 days of the date of receipt of the Notice of Denial. Upon receiving a copy of a Notice of Appeal, the Governor's office shall prepare a copy of the entire file

pertaining to the application and shall transmit it to the Tribal Court, with a copy to the applicant. The Pueblo, represented by the Pueblo's attorney, shall appear in the action in the Tribal Court. The proceedings in the Tribal Court shall be based upon the record that was before the Liquor License Administrator and the Governor, except that the applicant may, upon a showing of good cause, be permitted to submit additional evidence to rebut or explain information relied on by the Governor for his denial of the application that was not obtained from the applicant. The Tribal Court shall affirm the Governor's decision unless it finds that the Governor acted arbitrarily or capriciously or otherwise abused his discretion in making his determination.

E. Any party that is aggrieved by the decision of the Tribal Court may petition the Tribal Council to review the Tribal Court decision, in writing, within 30 days after issuance of the Tribal Court decision. The petition shall set forth the specific grounds on which the petitioner claims the Tribal Court erred in its decision, and why its decision should be reviewed, and shall be served on the Governor and all parties. The prevailing party may submit a response to the petition within 15 days of service of the petition. The Governor shall place the petition on the agenda of the next Tribal Council meeting after service of the response (or the expiration of the 15-day period, if no response is filed), and the Tribal Council shall, at such meeting, decide whether to hear the petition. In the event the Tribal Council decides to hear the petition, the Governor shall notify all parties of that decision, and of the date on which the Tribal Council shall consider the matter. The Governor shall provide each Tribal Council member with a copy of the Tribal Court decision, the petition for Tribal Council review and the response, if any, and the complete record before the Tribal Court shall be available for inspection by any Tribal Council member. The Tribal Council shall hear each party's representative present its

arguments, and shall decide by majority vote whether a license should be issued to the applicant. The Tribal Council's decision shall be final and nonreviewable.

Section 156: TERM; RENEWAL; FEE.

A. Each package or premises license issued hereunder shall have a term of one (1) year from the date of issuance, provided that such license shall be renewable for additional periods of one year each by any licensee who has complied fully with the terms and provisions of the license and of this Liquor Code during the term of the license, and who remains fully qualified to be licensed under the provisions of Section 153 of this Chapter, upon payment to the Pueblo of a license renewal fee in the amount of the initial application fee, and submission of an application for renewal on a form specified by the Liquor License Administrator, no less than thirty (30) days prior to the expiration date of the license. The renewal form shall require the applicant to note any changes in the information submitted with the original license application. The failure to submit a timely renewal application, with the required fee, may subject the licensee to a late charge of \$500.00. If the renewal application is not submitted prior to expiration of the license, the Liquor License Administrator may treat the license as having expired, and may require the licensee to file a new application in compliance with Section 154 of this chapter.

B. Upon receipt of an application for renewal of a license, and a recommendation of the Liquor License Administrator, the Governor shall determine whether the licensee has conducted its operations in compliance with the provisions of this Code, and is otherwise qualified to be licensed. In the event the Governor receives information indicating that the licensee has not complied with the provisions of this Code or is otherwise not qualified to be

licensed hereunder, the Governor shall deny the application for renewal, giving the licensee written notice thereof with a statement of the reasons for such denial.

C. A licensee may appeal a denial of an application for renewal of its license, by filing a Notice of Appeal with the Office of the Governor and with the Santa Ana Tribal Court, within 30 days of receipt of the Notice of Denial of the application for renewal. Upon receiving the Notice of Appeal, the Governor's office shall prepare a complete copy of the entire file pertaining to the application and shall transmit it to the Tribal Court, with a copy to the applicant. The Pueblo, represented by the Pueblo's attorney, shall appear in the action in the Tribal Court. The proceedings in the Tribal Court shall be based upon the information submitted to the Governor by the licensee and any other information obtained by the Governor in the course of processing the application, except that the licensee shall be permitted to submit additional evidence to rebut or explain information relied on by the Governor for his denial of the application that was not obtained from the licensee. The licensee may apply to the Tribal Court for an order maintaining the license in effect during the pendency of the appeal, but in the absence of such order, the license shall expire at the end of its term. The Tribal Court shall affirm the Governor's decision unless it finds that the Governor acted arbitrarily or capriciously or otherwise abused his discretion in making his determination.

D. Any party that is aggrieved by the decision of the Tribal Court may petition the Tribal Council to review the Tribal Court decision, in writing, within 30 days after issuance of the Tribal Court decision. The petition shall set forth the specific grounds on which the petitioner claims the Tribal Court erred in its decision, and why its decision should be reviewed, and shall be served on the Governor and all parties. The prevailing party may submit a response to the petition within 15 days of service of the petition. The Governor shall place the petition on

the agenda of the next Tribal Council meeting after service of the response (or the expiration of the 15-day period, if no response is filed), and the Tribal Council shall, at such meeting, decide whether to hear the petition. In the event the Tribal Council decides to hear the petition, the Governor shall notify all parties of that decision, and of the date on which the Tribal Council shall consider the matter. The Governor shall provide each Tribal Council member with a copy of the Tribal Court decision, the petition for Tribal Council review and the response, if any, and the complete record before the Tribal Court shall be available for inspection by any Tribal Council member. The Tribal Council shall hear each party's representative present its arguments, and shall decide by majority vote whether the license should be renewed. The Tribal Council's decision shall be final and nonreviewable.

Section 157: CONDITIONS OF LICENSE.

No licensee shall have any property interest in any license issued under the provisions of this Liquor Code, and every such license shall be deemed to confer a privilege, revocable by the Pueblo in accordance with the provisions of this Chapter. The continued validity of every package and premises license issued hereunder shall be dependent upon the following conditions:

A. Every representation made by the licensee and any of its officers, directors, shareholders, partners or other persons required to submit information in support of the application, shall have been true at the time such information was submitted, and shall continue to be true, except to the extent the licensee advises the Liquor License Administrator in writing of any change in any such information, and notwithstanding any such change, the licensee shall continue to be qualified to be licensed under the provisions of this Liquor Code.

B. The licensee shall at all times conduct its business on the Santa Ana Indian Reservation in full compliance with the provisions of this Liquor Code and with the other laws of the Pueblo.

C. The licensee shall maintain in force, public liability insurance covering the licensed premises, insuring the licensee and the Pueblo against any claims, losses or liability whatsoever for any acts or omissions of the licensee or of any business invitee on the licensed premises resulting in injury, loss or damage to any other party, with coverage limits of at least \$1 million per injured person, and the Liquor License Administrator shall at all times have written evidence of the continued existence of such policy of insurance.

D. The licensee shall continue to have authority to engage in business within the Development Area, and shall have paid all required rentals, assessments, taxes, or other payments due the Pueblo.

E. The business conducted on the licensed premises shall be conducted by the licensee or its employees directly, and shall not be conducted by any lessee, sublessee, assignee or other transferee, nor shall any license or any interest therein be sold, assigned, leased or otherwise transferred to any other person.

F. All alcoholic beverages sold on the licensed premises shall have been obtained from a New Mexico licensed wholesaler.

G. The licensee shall submit to the jurisdiction of the Tribal Court of the Pueblo with respect to any action brought by the Pueblo or any of its agencies or officials to enforce the provisions of this Liquor Code, or with respect to any action arising out of the licensee's sale or service of alcoholic beverages on the licensed premises.

Section 158: SANCTIONS FOR VIOLATION OF LICENSE.

A. Upon determining that any person licensed by the Pueblo to sell alcoholic beverages under the provisions of this chapter is for any reason no longer qualified to hold such license under the provisions of Section 153 hereof, or has violated any of the conditions set forth in Section 157, the Governor shall immediately serve written notice upon such licensee directing that he show cause within ten (10) calendar days why his license should not be suspended or revoked, or a fine imposed. The notice shall specify the precise grounds relied upon and the action proposed.

B. If the licensee fails to respond to such notice within ten (10) calendar days of service of such notice, the Governor shall issue an order suspending the license for such period as the Governor deems appropriate, or revoking the license, effective immediately, or imposing a fine, in such amount as the Governor deems reasonable. If the licensee, within the 10-day period, files with the Office of the Governor a written response and request for a hearing before the Santa Ana Tribal Court, such hearing shall be set no later than thirty (30) calendar days after receipt of such request.

C. At the hearing, the licensee, who may be represented by counsel, shall present evidence and argument directed at the issue of whether or not the asserted grounds for the proposed action are in fact true, and whether such grounds justify such action. The Pueblo may present such other evidence as it deems appropriate.

D. The court after considering all of the evidence and arguments shall issue a written decision either upholding the proposed action of the Governor, modifying such action by imposing some lesser penalty, or ruling in favor of the licensee, and such decision shall be final and conclusive.

Section 159: SPECIAL EVENT LICENSE.

A. Any person authorized to conduct business within the Development Area, or any established organization (including any agency, department or enterprise of the Pueblo) that includes any member of the Pueblo and that has authority to conduct any activities within the Santa Ana Indian Reservation, that is not a licensee hereunder and that has not had an application for a license rejected, may apply to the Liquor License Administrator for a special event license, which shall entitle the applicant to distribute alcoholic beverages, whether or not for consideration, in connection with a bona fide special event to be held by the applicant within the Development Area. Any such application must be filed in writing, in a form prescribed by the Liquor License Administrator, no later than ten (10) calendar days prior to the event, and must be accompanied by a fee in an amount set by the Liquor License Administrator from time to time, and must contain at least the following information:

1. The exact days and times during which the event will occur (provided, that in no event shall any license be in effect for a period exceeding 72 hours, from the beginning of the first day of the event until the end of the last day);
2. The precise location within the Development Area where the event will occur, and where alcoholic beverages will be distributed;
3. The nature and purpose of the event, and the identity or categories of persons who are invited to participate;
4. The nature of any food and beverages to be distributed, and the manner in which such distribution shall occur;
5. Details of all provisions made by the applicant for sanitation, security and other measures to protect the health and welfare of participants at the event;

6. Certification that the event will be covered by a policy of public liability insurance as described in Section 157(C) of this Liquor Code, that includes the Pueblo as a co-insured, or that the applicant will indemnify the Pueblo and hold it harmless from any claims, demands, liability or expense as a result of the act or omission of any person in connection with the special event , in which latter case the Liquor License Administrator or Governor may require a bond to assure compliance with such indemnification provision.

7. Any other information required by the Liquor License Administrator relative to the event.

B. The Liquor License Administrator, or the Governor, shall act to approve or reject the application no later than three days following submission of the application with the required fee. If the application is approved, the Liquor License Administrator or the Governor shall issue the license, which shall specify the hours during which and the premises within which sales, distribution and consumption of alcoholic beverages may occur. If any application is rejected, the rejection shall indicate the grounds therefor, and the applicant shall be entitled to file a new application correcting any deficiencies or problems found in the original application that warranted the rejection.

C. Alcoholic beverages may be sold or distributed pursuant to a special event license only at the location and during the hours specified in such license, in connection with the special event, only to participants in such special event, and only for consumption on the premises described in the license. Such sales or distribution must comply with any conditions imposed by the license, and with all other applicable provisions of this Liquor Code. All such alcoholic beverages must have been obtained from a New Mexico licensed wholesaler or retailer.

Section 160: DISPLAY OF LICENSE.

Every person licensed by the Pueblo to sell alcoholic beverages within the Santa Ana Indian Reservation shall prominently display the license on the licensed premises during hours of operation.

Subchapter Four: Offenses

Section 181: PURCHASE FROM OR SALE TO UNAUTHORIZED PERSONS.

Within the Santa Ana Indian Reservation, no person shall purchase any alcoholic beverage at retail except from a person licensed by the Pueblo under the provisions of this title; no person except a person licensed by the Pueblo under the provisions of this title shall sell any alcoholic beverage at retail; nor shall any person sell any alcoholic beverage for resale to any person other than a person properly licensed by the Pueblo under the provisions of this title.

Section 182: SALE TO MINORS.

A. No person shall sell or serve any alcoholic beverage to any person under the age of 21 years.

B. It shall be a defense to an alleged violation of this Section that the purchaser presented to the seller or server an apparently valid identification document showing the purchaser's age to be 21 years or older, provided that the seller or server, as the case may be, had no actual or constructive knowledge of the falsity of the identification document, and relied in good faith on its apparent validity.

Section 183: PURCHASE BY MINOR.

No person under the age of 21 years shall purchase, attempt to purchase or possess any alcoholic beverage.

Section 184: SALE TO PERSON UNDER THE INFLUENCE OF ALCOHOL.

No person shall sell any alcoholic beverage to a person who the seller has reason to believe is intoxicated or who the seller has reason to believe intends to provide such alcoholic beverage to an intoxicated person.

Section 185: PURCHASE BY PERSON UNDER THE INFLUENCE OF ALCOHOL.

No intoxicated person shall purchase any alcoholic beverage.

Section 186: DRINKING IN PUBLIC PLACES.

No person shall consume any alcoholic beverage in any public place within the Santa Ana Indian Reservation except on premises licensed by the Pueblo for the sale of alcoholic beverages by the drink.

Section 187: BRINGING LIQUOR ONTO LICENSED PREMISES.

No person shall bring any alcoholic beverage for personal consumption onto any premises within the Santa Ana Indian Reservation where liquor is authorized to be sold by the drink, unless such beverage was purchased on such premises, or unless the possession or distribution of such beverages on such premises is otherwise permitted under the provisions of this Liquor Code.

Section 188: OPEN CONTAINERS PROHIBITED.

No person shall have an open container of any alcoholic beverage in a public place, other than on premises licensed for the sale of alcoholic beverages by the drink, 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.

Section 189: USE OF FALSE OR ALTERED IDENTIFICATION.

No person shall purchase or attempt to purchase any alcoholic beverage by the use of any false or altered identification document that falsely purports to show the individual to be 21 years of age or older.

Section 190: PENALTIES.

A. Any person convicted of committing any violation of this Chapter shall be subject to punishment of up to one (1) year imprisonment or a fine not to exceed Five Thousand Dollars (\$5,000.00), or to both such imprisonment and fine.

B. Any person not a member of the Pueblo, upon committing any violation of any provision of this Chapter, may be subject to a civil action for trespass, and upon having been determined by the court to have committed the alleged violation, shall be found to have trespassed upon the lands of the Pueblo, and shall be assessed such damages as the court deems appropriate in the circumstances.

C. Any person suspected of having violated any provision of this Chapter shall, in addition to any other penalty imposed hereunder, be required to surrender any alcoholic beverages in such person's possession to the officer making the arrest or issuing the complaint.

Section 191: JURISDICTION.

Any and all actions, whether civil or criminal, arising from or pertaining to alleged violations of this title or any duty imposed hereby, or seeking any relief against the Pueblo or any officer or employee of the Pueblo with respect to any matter addressed by this Liquor Code, shall be brought in the Tribal Court of the Pueblo, which court shall have exclusive jurisdiction thereof. No waiver of this provision shall be implied by any court, and no such waiver shall be valid unless expressly set forth in a written resolution of the Tribal Council.

