



BILLING CODE 4337-15

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

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Shakopee Mdewakanton Sioux Community; Amendments to Liquor Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes amendments to the Shakopee Mdewakanton Sioux Community liquor ordinance (Liquor Ordinance). The amended Liquor Ordinance supersedes the ordinance to allow for on-sale liquor transactions adopted on August 15, 2012.

DATES: The amended Liquor Ordinance is effective **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

FOR FURTHER INFORMATION CONTACT: Amy Kania, Acting Tribal Operations Officer, Midwest Regional Office, Bureau of Indian Affairs, 5600 West American Boulevard, Suite 500, Bloomington, Minnesota 55437; Telephone: (612) 725-4500; Fax: (612) 713-4401.

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 U.S. 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 control ordinances for the purpose of regulating liquor transactions in Indian country.

On May 14, 2024, the Shakopee Mdewakanton Sioux Community General Council duly adopted the amendments to the Community's Liquor Ordinance under General Council Resolution 05-14-24-001. This *Federal Register* notice comprehensively amends and supersedes the Shakopee Mdewakanton Sioux Community 2012 Liquor Ordinance.

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 General Council, Shakopee Mdewakanton Sioux Community of Minnesota, duly adopted these amendments to the Community's Liquor Ordinance.

Bryan Mercier,

Director, Bureau of Indian Affairs

Exercising authority by delegation of the Assistant Secretary—Indian Affairs.

The Shakopee Mdewakanton Sioux Community's Liquor Ordinance, as amended, shall read as follows:

Chapter 1. General Provisions

1.1 Title

This Ordinance shall be known as the Shakopee Mdewakanton Sioux Community Liquor Ordinance. This Ordinance replaces and supersedes the Off-Sale Liquor Ordinance enacted by the General Council on December 12, 1982 and the On-Sale Liquor Ordinance enacted by the General Council on May 08, 2012.

1.2 Purpose

The purpose of this Liquor Ordinance is to authorize, regulate, and control the sale and serving of On-Sale and Off-Sale Alcoholic Beverages within the territory of the Shakopee Mdewakanton Sioux Community in accordance with federal law, the laws of the Tribe, and the laws of the State of Minnesota.

1.3 Authority and Jurisdiction

The General Council of the Shakopee Mdewakanton Sioux Community has constitutional and inherent sovereign authority to promulgate and enforce ordinances which are intended to safeguard and promote the peace, safety, morals, and general welfare of the Community by regulating the conduct of trade and the use and disposition of property upon the reservation.

1.4 Business Council Authority and Reporting Requirements

A. The Business Council of the Community shall oversee On-Sale and Off-Sale liquor licensing, sales, and operations on Tribally-owned property located within the

jurisdiction of the Shakopee Mdewakanton Sioux Community regardless of Reservation status.

B. All on-sale liquor operations conducted by any Tribally authorized entity on Tribally-owned property within the jurisdiction of the Shakopee Mdewakanton Sioux Community regardless of Reservation status shall report at least annually to the General Council on all on-sale liquor operations.

C. All off-sale liquor operations conducted by any Tribally authorized entity on Tribally-owned property within the jurisdiction of the Shakopee Mdewakanton Sioux Community regardless of Reservation status shall report at least annually to the General Council on all off-sale liquor operations.

D. The Business Council shall report on an annual basis to the General Council on liquor sales operations within the reservation, shall promptly upon receipt remit any excise taxes, application or license fees collected to the Secretary-Treasurer, and shall perform all other duties as set forth in this Ordinance.

1.5 Use of language from other laws

The inclusion of language, definitions, procedures, or other statutory or administrative provisions from other tribal jurisdictions, the State of Minnesota, or other state or federal entities in this Ordinance shall not be deemed an adoption of that law by the Shakopee Mdewakanton Sioux Community or its courts and shall not be deemed an action deferring to state or federal jurisdiction by the Shakopee Mdewakanton Sioux Community where such state or federal jurisdiction does not otherwise exist.

1.6 Nonwaiver of Immunity

Nothing in this Ordinance shall be construed to constitute a waiver of the sovereign immunity of the Shakopee Mdewakanton Sioux Community, or any of its officers, employees, or agents administering or enforcing this Ordinance, except as provided for in this Ordinance or by a duly enacted resolution. Nor shall this Ordinance subject the Community to liability for damages or other relief resulting from enforcement of this Ordinance, reliance upon it, or conformance to it, except as provided for in this Ordinance or by a duly enacted resolution.

1.7 Computation of Time

Time periods in this Ordinance shall be computed according to the following rules: exclude the day of the event that triggers the period; count every day, including intermediate Saturdays, Sundays, and legal holidays; and include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

1.8 Tribal Court Jurisdiction

The Tribal Court of the Shakopee Mdewakanton Sioux Community shall have jurisdiction over disputes arising from this law. Such jurisdiction shall be exclusive to the Tribal Court of the Shakopee Mdewakanton Sioux Community.

1.9 Severability

If any provision of this Ordinance is found to be invalid or illegal under applicable Community or federal law, such provision shall be severed from this Ordinance. The remainder of the Ordinance shall remain in full force and effect.

1.10 Secretarial Approval

This Ordinance shall become effective when it is certified by the Secretary of Interior and published in the *Federal Register*.

Chapter II. Definitions

2.1 Definitions

The terms used in this Liquor Ordinance shall have the following meanings:

- A. “Alcohol” or “Alcoholic Beverage” or “Liquor” means any beverage containing more than one-half of one percent alcohol by volume.
- B. “Business Council” means the body composed of the members of the Tribe’s Business Council, duly elected and serving in accordance with the provisions of the Constitution of the Tribe.
- C. “Community” means the Shakopee Mdewakanton Sioux Community, a federally recognized Indian Tribe organized under Section 16 of the Indian Reorganization Act of 1934.
- D. “General Council” means the governing body of the Tribe, in accordance with the provisions of the Constitution of the Tribe.
- E. “Licensed premises” means: (1) locations where Tribal gaming or gaming-related activity is authorized and where the Tribal Gaming Enterprise may be authorized to sell liquor if such sales have been authorized by the Shakopee Mdewakanton Sioux Community Gaming Ordinance; (2) designated locations authorized by this Ordinance other than by subsection (1); (3) gaming or non-gaming locations on other Tribally-owned property; or (4) off-sale liquor establishments that were in operation on January 1, 2024 pursuant to a duly issued off-sale liquor license.

F. "Ordinance" means this Liquor Ordinance.

G. "Non-gaming location" means those areas of the Reservation or under the jurisdiction of the Tribe that are not gaming eligible pursuant to the Indian Gaming Regulatory Act and areas within a Tribal Gaming Enterprise not designated by the Gaming Commission as gaming space within a Tribal Gaming Enterprise location.

H. "Off-sale" means the sale of alcoholic beverages in its original packaging for consumption off the licensed premises only.

I. "Off-sale License" means permission to operate an off-sale retail liquor outlet on the Shakopee Mdewakanton Sioux Community issued under the provisions of Chapter 4 of this ordinance.

J. "On-sale" means the sale of alcoholic beverages for consumption on licensed premises only.

K. "On-sale License" means permission to sell liquor for consumption at a Tribally-owned property located within the jurisdiction of the Shakopee Mdewakanton Sioux Community regardless of Reservation status which is issued in accordance with the provisions of Chapter 3 of this Ordinance.

L. "Tribal Economic Development Enterprise" means a tribal entity created by the Community that is delegated responsibility and authority to engage in commerce on behalf of and for the benefit of the Community.

M. "Tribal Enterprise" means a Tribal Gaming Enterprise or a Tribal Economic Development Enterprise.

N. "Tribal Gaming Enterprise" means the Tribal department created by Tribal Ordinance and delegated the responsibility to operate and conduct bingo, the sale of pull

tabs, gaming in general and the conduct of other games of chance, including but not limited to video games of chance, blackjack, card games, and any other lawful games of chance and to oversee the Tribe's gaming and gaming-related activity.

O. "Tribal Gaming Location" means those areas operated and overseen by the Tribal Gaming Enterprise where gaming is authorized and conducted on the Shakopee Mdewakanton Sioux Community Reservation.

Chapter III. On Sale Liquor Licenses

3.1 *On-Sale Liquor Licenses*

An annual license for on-sale liquor may be issued only to: (1) the Tribal Gaming Enterprise; or (2) a Tribal Economic Development Enterprise.

A. Any On-Sale Liquor operation authorized by this Ordinance must apply on behalf of each individual location within the Tribe's jurisdiction for an On-Sale Liquor License. No sale of Alcoholic Beverages shall be allowed unless the location has been duly licensed.

B. Licenses shall be for the term of one (1) year, running from the date of issuance through December 31 of the calendar year.

C. Application procedure:

1. A Tribal Enterprise shall complete an application form as provided by the Business Council. The application form shall require details, including but not limited to, the exact location or locations intended to become licensed premises.

2. The Business Council shall be authorized to issue a license for the sale of alcohol for consumption at the following locations: a) the Tribal Gaming Enterprise; b)

the amphitheater; c) the Meadows Golf Course; d) Launchpad Golf e) any other areas not designated by the Gaming Commission as gaming space within a Tribal Gaming Location; or f) any other location on Tribal land that is not eligible for gaming but has been designated for use by a Tribal Economic Development Enterprise pursuant to a General Council Resolution.

3. The Business Council may issue an on-sale liquor license if and when it is determined that all applicable Tribal and Federal requirements are satisfied.

3.2 Operation Under License

A. A license issued hereunder shall authorize on-sale operations for the sale and consumption of liquor.

B. Plan of Operation:

1. Prior to any sale of liquor, an On-Sale Liquor operation, other than the Tribal Gaming Enterprise, and those locations identified in Section 3.1(C)(2)(a),(b), (c), (d), and (e) above, must submit a specific and detailed plan of operation, including information required by Section 3.1(C)(1) above, for approval by the General Council. No sales shall occur until the General Council has approved the plan. Any alteration of the plan of operation, including any changes regarding locations of alcohol sales and consumption, will require approval from the General Council.

2. If the Tribal Gaming Enterprise has been duly authorized to sell liquor, it shall submit the required plan to the Shakopee Gaming Enterprise Board of Directors for approval.

C. Pursuant to federal law requirements, any on-sale liquor operation must conform its operations to those applicable laws of the State of Minnesota relating to the

sale or possession or consumption of alcoholic beverages as required by the applicable Minnesota Statutes Annotated.

D. All on-sale transactions and consumption of liquor shall be confined to licensed premises except in the following circumstances:

1. A restaurant that is licensed and operated by the Tribal Gaming Enterprise or a Tribal Economic Development Enterprise may permit a person purchasing a full bottle of wine in conjunction with the purchase of a meal to remove the bottle upon leaving the licensed premises provided that the bottle has been opened and the contents partially consumed. Consumption of a partially consumed bottle of wine on the gaming floor is strictly prohibited. Any partially consumed bottle of wine must be immediately stored in a hotel room, the trunk of a vehicle, or in some other area of the vehicle not typically occupied by the driver or passengers. The removal of a bottle under the conditions described in this subdivision does not constitute off-sale pursuant to this Ordinance and may be permitted without additional licensure.

2. A gift shop or concessionaire that is licensed by the Community and operated by the Tribal Gaming Enterprise may permit a person to purchase unopened bottles of beer, wine, or pre-mixed canned cocktails in conjunction with a hotel stay provided that the individual is staying in a hotel room and the contents are consumed on property. The consumption of Alcoholic Beverages purchased pursuant to this subdivision on the casino floor is strictly prohibited. Any Alcoholic Beverages purchased at a gift shop or concessionaire must be immediately stored in a hotel room. The purchase of Alcoholic Beverages under the conditions described in this subdivision does not qualify as off-sale pursuant to this Ordinance and may be permitted without additional licensure.

E. All authorized On-Sale Liquor operations must keep complete and accurate records of inventory and sales, and provide such information in its report to the General Council.

F. The Business Council may suspend or revoke a license under this Ordinance for violation of any of the terms of this Ordinance. Such decision shall be final.

Chapter IV. Off-Sale Liquor Licensing

4.1 Off-Sale Liquor Licenses

There is hereby authorized to be issued a maximum of five (5) annual licenses to operate as off-sale vendors under the terms and conditions of this ordinance.

A. Licenses shall be for the term of one year or less, running from the date of issuance to December 31 of the calendar year of issuance.

B. A fee for issuance of a license shall be \$1000.00 payable upon receipt of the license.

4.2 Application Procedure

A. An applicant for a license must be a member of the Shakopee Mdewakanton Sioux Community 21 years of age or older.

B. The applicant shall complete an application form, as provided by the Business Council, and shall submit it back to the Business Council within 20 days after notice is published at the Community Center and on the Community member website that one or more licenses under this ordinance are available for issuance.

C. The applicant shall accompany his/her application with:

1. A non-refundable application fee of \$10.00; and

2. Proof that the applicant's financial assets exceed his/her liabilities by an amount equal to or greater than \$5000.00.

D. 20 days after notice has been provided that one or more licenses are available, the Business Council shall declare the application period closed, shall promptly reject any incomplete application notifying the applicant at once, and shall proceed to evaluate the balance of the applications for the available licenses, according to the information contained therein and accompanying documents. He/she shall issue the available license(s) to the applicant(s) most qualified to operate as a vendor under the terms and conditions of this ordinance.

E. Upon receipt of a license hereunder, an applicant shall post a bond in an amount, to be established by the Business Council annually, sufficient to ensure payment to the Community on the projected annual excise tax.

4.3 Excise Tax

A. There is hereby imposed an excise tax on the sale of each bottle or other container of liquor sold by an Off-Sale Liquor Licensee in the amount of five (5) cents bottle and case, and ten (10) cent keg.

B. Each Off-Sale Liquor Licensee must file, with the Business Council, a complete report of sales during a month and remit the excise tax on such sales. Such report and remittance must be made no later than the 15th day of the month following that to which the report applies.

4.4 Operation Under License

A. The license issued hereunder shall authorize the Off-Sale Liquor Licensee to operate a retail sales outlet for the sale of unopened and sealed liquor, wine, or beer only.

B. All Off-Sale Liquor Licensees must conform their operations to those laws of the State of Minnesota related to the sale or possession of intoxicating beverages or beer as indicated in Minnesota Statutes Annotated.

C. An Off-Sale Liquor Licensee must complete and maintain accurate records of inventory, sales, payroll, taxes paid and withheld, and all other facets of business operations. The books and records maintained by each vendor operating under a license shall be open for inspection by the Business Council at all times during normal business hours.

4.5 Revocation of Suspension of License

A. The Business Council may suspend a license issued under this ordinance for violation of any of the terms of this ordinance.

1. For failure to submit the report or remit the excise tax required by Section 4.3, or for refusal to permit inspection of books or records as required by Section 4.4, such suspension shall cease upon compliance with the indicated section.

2. No suspension shall continue for more than ninety (90) days, provided, however, that the Business Council may make a recommendation at any time to the General Council that a license be revoked.

B. The General Council may revoke a license issued under this ordinance for violation of any of the terms of this ordinance.

1. License revocations shall be presented to the General Council for a vote at a duly convened meeting of the General Council.

2. The Business Council shall initiate the license revocation process by providing written notice to the licensee at least thirty (30) days prior to the General Council meeting

at which the license revocation will be considered. This written notice shall contain a recitation of the causes justifying revocation.

3. The General Council shall permit statements or testimony by any person wishing to give such at the revocation hearing.

4. The General Council may, by majority vote, revoke a license.

C. One prior license revocation shall not prevent a person, otherwise qualified, from applying for a subsequent license under Section III. Two prior license revocations shall render a person ineligible from applying for subsequent licenses.

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