



DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[267A2100DD/AAKC001030/A0A501010.00000]

Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California;

Liquor Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Liquor Control Ordinance of the Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California.

DATES: The Liquor Control Ordinance shall become effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Ms. Sarraye Forrest-Davis, Tribal Government Specialist, Bureau of Indian Affairs, Pacific Region, Division of Tribal Government Services, 2800 Cottage Way, Room W-2820, Sacramento, California 95825, Telephone (916) 978-6067, Fax: (916) 978-6099.

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 control ordinances for the purpose of regulating liquor transactions in Indian country. On August 20, 2025, the Business Committee of the Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California, enacted the Elem Indian Colony Liquor Control Ordinance by Resolution No. ADLCO25323 to regulate and control the consumption, possession, sale, manufacture, and distribution of liquor within Tribe’s reservation and trust lands.

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 Business Committee of the Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California, duly enacted Elem Indian Colony Liquor Control Ordinance by Resolution No. ADLCO25323 on August 20, 2025.

William Henry Kirkland III,

Assistant Secretary – Indian Affairs.

The Elem Indian Colony Liquor Control Ordinance shall read as follows:

LIQUOR CONTROL ORDINANCE

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ARTICLE ONE, GENERAL PROVISIONS

Section 1.1 Title. This Ordinance shall be known as Elem Indian Colony Liquor Control Ordinance. The short title of this Ordinance shall be referred to as the “Liquor Control Ordinance.”

1.2 Authority. This Liquor Control 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 inherent and enumerated powers vested in the Elem Indian Colony of Pomo Indians (“Tribe”) to promulgate and adopt legislation, regulations and ordinances under Article VII, Section 1. and 2. of the Constitution of Elem Indian Colony.

1.3 Purpose. The purpose of this Liquor Control Ordinance is to regulate and control the consumption, possession, Sale, manufacture, and distribution of Liquor within Lands under the Tribe’s Jurisdiction including its Reservation and/or Rancheria (“Reservation”)

and trust Lands, in order to permit Alcohol Sales by tribally owned and operated enterprises, private lessees, and tribally approved special events. The enactment of this Liquor Control Ordinance will help promote a source of revenue for the continued operation of the tribal government, the delivery of governmental services, and the economic viability of tribal enterprises.

1.4 Jurisdiction. This Liquor Control Ordinance shall apply to all Lands now or in the future under governmental control or authority of the Tribe, including, but not limited to, the Tribe's current Reservation, as well as any Lands that may be taken into trusts for the Tribe in the future.

1.5 Application of 18 U.S.C. § 1161. By adopting this Liquor Control Ordinance, the Tribe hereby regulates the Sale, manufacturing, distribution, possession and consumption of Liquor while ensuring that such activity conforms with all applicable laws of the State of California as required by 18 U.S.C. § 1161 and the United States.

1.6 Declaration of Public Policy; Findings. The Tribe enacts this Liquor Control Ordinance based upon the following findings:

(a) The distribution, manufacturing, possession, consumption and Sale of Liquor within the Tribe's jurisdiction is a matter of special concern to the Tribe.

(b) The Tribe is the beneficial owner of the Reservation and trust Lands, upon which the Tribe intends to operate various business including a Travel Center/Fuel Station.

(c) The Tribe's businesses serve as an integral and indispensable part of the Tribe's economy, providing revenue to the Tribe's government and employment of its tribal citizens and others in the local community.

(d) Federal law, as codified at 18 U.S.C. §1154 and §1161, currently prohibits the introduction of Liquor into Indian country, except in accordance with State law and the duly enacted laws of the Tribe.

(e) The Tribe recognizes the need for strict control and regulation of Liquor transactions on Lands under the Tribe's Jurisdiction because of the potential problems associated with the unregulated or inadequately regulated Sales, possession, manufacturing, distribution and consumption of Liquor.

(f) Regulating the possession, Sale, distribution, consumption and manufacture of Liquor within Lands under the Tribe's Jurisdiction is also consistent with the Tribe's interests in ensuring the peace, safety, health, and general welfare of the Tribe and its citizens.

(g) Tribal control and regulation of Liquor on Lands under the Tribe's Jurisdiction is consistent with the Tribe's custom and tradition of controlling the possession and consumption of Liquor on tribal Lands, and at tribal events.

(h) The purchase, distribution, manufacturing, consumption, possession and Sale of Liquor on Lands under the Tribe's Jurisdiction shall take place only at duly Licensed (i) tribally owned enterprises, (ii) other enterprises operated pursuant to a lease with the Tribe, and (iii) tribally sanctioned events. (i) The Sale, consumption, possession or other commercial manufacture or distribution of Liquor on Lands under the Tribe's Jurisdiction, other than Sales, consumption, possession, manufacture and distributions made in strict compliance with this Liquor Control Ordinance, is detrimental to the health, safety, and general welfare of the citizens of the Tribe, and is prohibited.

1.7 Interpretation and Findings. The Tribe shall interpret any ambiguities contained in this ordinance.

1.8 Conflicting Provisions. Whenever a conflict arises between the provisions of this Liquor Control Ordinance, the stricter of such provision shall apply. In construing the provisions of the ordinance, words or phrases shall have their ordinary meaning unless a different meaning is expressly provided or the context clearly indicates otherwise.

ARTICLE TWO, DEFINITIONS

Section 2.1 Terms Defined. As used in this Liquor Control Ordinance, the terms set forth below shall have the following definition:

(a) "Alcohol" means ethyl Alcohol, hydrated oxide of ethyl, or other distilled spirits, in any form, regardless of the source or the purpose used for its production.

(b) "Alcoholic Beverage" means all Alcohol, spirits, Liquor, wine, beer and any liquid or solid containing Alcohol, spirits, Liquor, wine, or beer, and which contains one-half of 1% or more of Alcohol by volume and that is fit for human consumption, either alone or when diluted, mixed, or combined with any other substance(s).

(c) "Compact" means the State Compact entered between the State of California and the Tribe that governs the conduct of Class III gaming activities on the Reservation pursuant to the Indian Gaming Regulatory Act.

(d) "Lands" means all real property currently held in trust by the United States for the benefit of the Tribe; as well as all real property that may be taken into trust in the future for the benefit of the Tribe.

(e) "Lands under the Tribe's Jurisdiction" means and includes all Lands now or in the future under the governmental authority or control of the Tribe.

(f) "License" means, unless otherwise Stated, a License issued by the Tribe in accordance with this Liquor Control Ordinance.

(g) "Liquor" means any Alcoholic Beverage, as defined under this section.

(h) "Person" means any individual or entity, whether Indian or non-Indian, receiver, assignee, trustee in bankruptcy, trusts, State, firm, corporation, partnership, joint venture, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise, and any other Indian tribe, band or group. The term shall also include the businesses of the Tribe.

(i) "Tribe" means Elem Indian Colony of Pomo Indians, a federally recognized Indian Tribe that is listed in the Federal Register.

(j) "Travel Center" means a fuel and convenience store owned by the Tribe and operating on trust Lands.

(k) "Sale and Sell" means the transfer for consideration of any kind, including by exchange or barter.

(l) "State" means the State of California or a subordinate licensing entity.

(m) "Reservation and or Rancheria" means all Lands held in trust by the United States for the benefit of Elem Indian Colony.

ARTICLE THREE, LIQUOR SALES, POSSESSION, CONSUMPTION AND MANUFACTURE

3.1 Possession and Consumption of Alcohol. The introduction, consumption and possession of Alcoholic Beverages shall be lawful within Lands under the Tribe's Jurisdiction; provided that such introduction, consumption or possession is in conformity with the laws of the State and this Liquor Control Ordinance.

3.2 Retail Sales of Alcohol. The Sale of Alcoholic Beverages shall be lawful within Lands under the Jurisdiction of the Tribe; provided that such Sales are in conformity with the laws of the State and are made pursuant to a License issued by the Tribe.

3.3 Manufacture of Alcohol. The manufacture of beer, wine and spirits shall be lawful within Lands under the Jurisdiction of the Tribe, provided that such manufacture is in conformity with the laws of the State and pursuant to a License issued by the Tribe.

3.4 Age Limits. The legal age for possession or consumption of any Alcoholic Beverage within Lands under the Jurisdiction of the Tribe shall be the same as that of the State, which is currently 21 years. No Person under the age of 21 years shall purchase, possess or consume any Alcoholic Beverage. If there is a conflict between State law and the terms of the Compact regarding the age limits for Alcoholic Beverage possession or

consumption, the age limits required by the State shall govern for purposes of this Liquor Control Ordinance.

ARTICLE FOUR, POWER OF THE TRIBE

4.1 Licensing. The Tribe shall have the power to issue a License under this ordinance for the Sale, manufacture, distribution or possession of Liquor on its Lands; as well as the power to establish procedures and standards for tribal licensing of Liquor Sales, manufacture, distribution and possession within Lands under the Jurisdiction of the Tribe, including the setting of a License fee schedule, and shall have the power to publish and enforce such standards; provided that no Tribal License shall be issued except upon showing of satisfactory proof that the applicant is duly Licensed by the State. The fact that an applicant for a Tribal License possesses a License issued by the State shall not provide the applicant with an entitlement to a Tribal License. The Tribe may, in its discretion, set standards which are more, but in no case less, stringent than those of the State.

4.2 Limitation on Powers. In the exercise of its powers and duties under this ordinance, the Tribe, designee, individual members and staff shall not:

- (a) Accept any gratuity, compensation or other thing of value from any Liquor wholesaler, retailer or distributor, or from any Licensee; or
- (b) Waive the immunity of the Tribe from suit without the express and separate consent of the Tribe or Executive Committee consistent with its sovereign immunity waiver ordinance, if any, or via resolution.

4.3 Inspection Rights. The public places on or within which Liquor is sold, distributed or consumed shall be open for inspection by the Tribe or its designee at all reasonable times for the purposes of ascertaining compliance with this ordinance and other regulations promulgated pursuant thereto. The Tribe may delegate all or part of its inspection authority to a designee or other subordinate tribal entity or agency, or may contract with third parties for this purpose.

ARTICLE FIVE, ENFORCEMENT POWER

5.1 Enforcement. The Tribe shall have the power to develop, enact, promulgate and enforce regulations as necessary for the enforcement of this Liquor Control Ordinance and to protect the public health, welfare and safety of the Tribe and Lands under the Jurisdiction of the Tribe, provided that all such regulations shall conform to, and not be in conflict with, any applicable tribal, federal or State law. Regulations enacted pursuant to this Liquor Control Ordinance may include provisions for the suspension or revocation of a tribal Liquor License, reasonable search and seizure provisions, and civil and criminal penalties for the violation of the Liquor Control Ordinance to the full extent permitted by federal law and consistent with due process.

(a) Tribal law enforcement Personnel and security Personnel duly authorized by the Tribe shall have the authority to enforce this Liquor Control Ordinance by confiscating any Liquor sold, possessed, distributed, manufactured or introduced within the Lands under the Jurisdiction of the Tribe in violation of this Liquor Control Ordinance or of any regulations duly adopted under or pursuant to this Liquor Control Ordinance.

(b) The Tribe shall have the exclusive jurisdiction to hold hearings on violations of this Liquor Control Ordinance and any procedures or regulations adopted under or pursuant to this Liquor Control Ordinance; to promulgate appropriate procedures governing such hearings; to determine and enforce penalties or damages for violations of this Liquor Control Ordinance; and delegate to a subordinate hearing officer or panel the authority to take any or all of the foregoing actions on its behalf.

ARTICLE SIX, TAXES, REPORTS, AND AUDITS

6.1 Taxation. Nothing contained in this Liquor Control Ordinance is intended to, nor does in any way, limit or restrict the Tribe's ability to impose any tax upon the Sale, manufacture or consumption of Liquor or any Alcoholic Beverage.

6.2 Sales Tax. There is hereby levied and shall be collected a tax on each retail Sale of Liquor and Alcoholic Beverages on the Lands within the Tribe's Jurisdiction in an amount of one and one-half (1.5%) percent of the retail Sales price. All taxes from the Sale of Liquor and beverages shall be paid to the General Fund of the Tribe.

6.3. Taxes Due. All taxes of the Sale of Liquor and Alcoholic Beverages within the Tribe's Jurisdiction are due on the 15th date of the month following the calendar quarter for which the taxes are due.

6.4. Delinquent Taxes. Past due taxes shall accrue interest a two percent (2%) per month.

6.5 Sales Tax Reporting. Along with payment of the taxes imposed the taxpayer shall submit a quarterly accounting of all income from the Sale or distribution of Liquor, as well as for the taxes collected.

6.6 Audit. As a condition of obtaining a License, the Licensee shall submit to a review of its books and records relating to the Sale of Liquor and Alcoholic Beverages within the Tribe's Jurisdiction. The audit shall be done bi-annually through its agents or designee for purposes of enforcing this ordinance and to review the accuracy of the reports.

ARTICLE SEVEN, MISCELLANEOUS PROVISIONS

Section 7.1 Sovereign Immunity Preserved. Nothing contained in this Liquor Control Ordinance shall be deemed or construed as a waiver of the Tribe's sovereign immunity or is intended to be construed in any way, to limit, alter, restrict, or waive the sovereign immunity of the Tribe or any of its officers, entities or agents. All inherent sovereign rights of the Tribe, its officers, entities and/or agents are hereby expressly reserved, including the Tribe's sovereign immunity from unconsented suits or actions of any kind.

Section 7.2 Conformance with Applicable Laws. All acts and transactions under this Liquor Control Ordinance shall be in conformity with the Compact, if applicable, and/or the laws of the State to the extent required by 18 U.S.C. § 1161, and with all federal laws regarding Alcohol in Indian Country.

Section 7.3 Effective Date. This Liquor Control Ordinance shall be effective as of the date on which the Secretary of Interior certifies this ordinance and publishes the same in the Federal Register.

Section 7.4 Repeal of Prior Acts. All prior enactments of the Executive Committee, including tribal resolutions, policies, regulations, statutes or ordinances pertaining to the subject matter set forth in this Liquor Control Ordinance are hereby rescinded.

Section 7.5 Amendments. This Liquor Control Ordinance may only be amended pursuant to an amendment duly enacted by the Tribe and certified by the Secretary of Interior and published in the Federal Register, if required.

Section 7.6 Severability and Savings Clause. If any part or provision of this Liquor Control Ordinance is held invalid, void or unenforceable by a court of competent jurisdiction, such adjudication should not be held to render such provisions inapplicable to the other Persons or circumstances. Furthermore, the remainder of the ordinance shall not be affected and shall continue to remain in full force and effect.

ARTICLE EIGHT, LIQUOR LICENSING

8.1 Application for Liquor License Form and Content. An Application for a Liquor License under this ordinance shall be made to the Tribe's Executive Committee and shall contain the following information:

(a) The names and addresses of the applicant(s). In the case where applicants are an entity the names and addresses of all officers, directors and stockholders owning more than ten percent (10%) of outstanding corporate shares.

(b) The specific area or location for which the License is applied for.

(c) The Type of Liquor License applied for (retail off-Site, etc.).

(d) Whether the applicant has a State License.

(e) A Statement that the applicant has not been convicted of a felony and has not violated or will not violate or cause to be violated this ordinance or any provisions of the California Alcoholic Beverage Control Act;

(f) The signature and fingerprint of the applicant. In the case of a partnership or limited liability company, the signature and fingerprint of each partner or Company member. In the case of a corporation, a fingerprint of each corporate officer under the seal of the corporation.

(g) The application shall be verified, under oath, notarized and accompanied by the License fee required by this ordinance.

8.2 Fee Accompanying License Application. The Tribe, by resolution shall establish a fee schedule for the licensure, renewal and transfer of tribal Liquor Licenses. The Tribe may issue any of the California Beverage Control License types for use within its Jurisdiction so long as the Tribe or a tribally owned, chartered or affiliated entity holds an active California Beverage Control License of the type to be Licensed.

8.3 Investigation and Denial of Application. Upon receipt of an application for the issuance, transfer or renewal of a License and the application fee, the Tribe or its designee shall investigate whether the applicant or the premises applied for qualify for a License under the ordinance and whether the ordinance has been complied with and shall investigate any matter which may affect the health, welfare and morals of the Tribe and public. The Tribe shall deny a License if either the applicant or the premises applied for does not qualify for a License under the ordinance or the applicant has misrepresented any facts in the application or provided false information to the Tribe on the application to obtain a License. The Tribe may further deny a License if it cannot make the findings required under Section 9.2 of this ordinance or the Tribe determines that the issuance of said License would tend to create a law enforcement problem or the issuance of the License would result in detriment to the health, safety and welfare of the Tribe or public.

8.4 State License Required. No Person shall be allowed or permitted to Sell or provide Liquor on the Elem Indian Colony or its trust Lands if she/he/it does not also have a License from the State of California to Sell or provide such Liquor. If such License from the State is revoked or suspended, the Tribal License shall automatically be revoked or suspended as well.

ARTICLE NINE, ISSUANCE, RENEWAL, AND TRANSFER OF LICENSES

9.1 Public Hearing. Upon receipt of a License application, renewal or transfer and the payment of all required fees, the Tribe shall set a public hearing at the next available Tribal meeting date. Notice of the hearing shall be provided to the applicant and membership at least ten (10) days prior to the hearing. Notice shall be given by prepaid U.S. Mail at the address listed on the License application. Notice shall be provided to the Tribal membership via electronic mail, and by posting on the Tribal website and Tribal Office. At the hearing the Tribe shall hear from any Person who wishes to speak for or against the issuance, renewal or transfer of the License. The Tribe has the authority to place time limits on the speakers and limit or prohibit repetitive testimony.

9.2 Tribal Action on the Application. Within thirty (30) days of the hearing, the Tribe shall act on the application. The Tribe shall have the authority to approve the application without or with conditions or deny the application. Before approving an application, the Tribe shall make the following findings: (1) the site for the proposed License

has adequate parking, lighting, security, ingress and egress so as not to adversely affect adjoining properties or businesses; and (2) the Sale of Alcoholic Beverages is consistent with the Tribe's Zoning ordinance if such ordinance exists. Upon approval of an application the Tribe shall issue a License to the applicant in a form to be determined by the Tribe by resolution. All tribal Licensees shall post their License in a conspicuous place where the Alcoholic Beverages are sold or manufactured.

9.3 License Multiple Locations. Each tribal License shall be issued to a single location. Separate Licenses are required for the premises of any business establishment having more than one location.

9.4 License Terms; Temporary Licenses. All Licenses issued by the Tribe are issued on a calendar year annual basis and shall be renewed annually; provided however, the Tribe may issue a special License for the Sale of Alcoholic Beverages on a temporary basis for premises occupied temporarily by the Licensee; for a picnic, social gathering or similar occasion at a fee to be established by the Tribe by resolution.

9.5 Transfer of License; Tribal Approval Required. Each License issued under this ordinance is separate and distinct and transferrable from one Person to another or from one location to another only with tribal approval. The transfer application shall comply with this ordinance information requirements as to Person(s) or entitles Licensed and License location.

9.6 Licenses are not a Property Right. Notwithstanding any other provision of this Liquor Control 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 vested right of any kind, nor shall the granting of a tribal Liquor ordinance give rise to a presumption of legal entitlement to a License/permit in a subsequent time period.

ARTICLE TEN, SUSPENSION AND REVOCATION OF LICENSES

10.1 License Suspension and Revocation. The Tribe may revoke or suspend a License under any of the following circumstances:

- (a) Misrepresentation of a material fact on any application for License, renewal or transfer;
- (b) A violation of any condition imposed by the Tribe on the License, renewal or transfer;
- (c) A plea, judgment of guilty or plea of nolo contendere to any public offense involving moral turpitude under any federal, State or tribal law prohibiting or a law regulating the Sale, use, possession or giving away of Alcoholic Beverages or intoxicating Liquors;
- (d) The violation of any Tribal Ordinance;
- (e) A violation of any rule, regulation or policy of the California Alcoholic Beverage Control Act;
- (f) The failure to take reasonable steps to correct objectionable conditions constituting a public nuisance on the Licensed premises or any immediately adjacent area leased, assigned or rented by the Licensee within a reasonable time after receipt of notice to make such corrections by the Tribe or its designee.

10.2 License Revocation. Any Person or entity, including the Tribe, on its own motion or the adoption of a resolution, may initiate revocation proceedings by filing an accusation with the Executive Committee. The accusation shall be in writing, signed under penalty of perjury, and contain facts that support the revocation of the License consistent with this Ordinance. Upon receipt of the accusation the Executive Committee shall set a hearing date. Notice of the hearing shall be forwarded to the Licensee thirty (30) days prior to the hearing date. The Notice shall command the Licensee to appear at the hearing and show cause why the License should not be revoked. The Notice shall state the Licensee has the right to file a written response to the accusation ten (10) days prior to the hearing. Notice of the hearing shall be posted on the Tribe's website and at the Tribal Offices.

10.3 Revocation Hearing. Any revocation hearing shall be held before a majority of the members of Executive Committee or its designee. If a designee is utilized, the designee shall be appointed by the Executive Committee by resolution. The Licensee, accuser and the Tribe may present witnesses to testify and present documents at the hearing. The Executive Committee or its designee shall present a written decision within sixty (60) days of the hearing.

ARTICLE ELEVEN, ORDINANCE ENFORCEMENT

11.1 Ordinance Enforcement. Any Person or entity found to have violated this ordinance shall be subject to a civil penalty not more than five-hundred (\$500.00) dollars for each violation. The Tribe may adopt a separate schedule of fines for each type of violation by resolution. Such schedule may provide for penalties in excess of five-hundred (\$500.00) dollars the penalties shall be in addition to any criminal penalties that may be imposed subject to a separate ordinance adopted by the Tribe and in conformity with federal law.

ARTICLE TWELVE, VIOLATION A PUBLIC NUISANCE

12.1 Violation a Public Nuisance. Any violation of this ordinance shall constitute a public nuisance. The Tribe may initiate and maintain an action in tribal court or any court of competent jurisdiction to abate or permanently enjoin the nuisance. Any action taken under this section shall be in addition to other penalties provided for under this ordinance.

ARTICLE THIRTEEN, SEVERABILITY

13.1 Severability. If any part of this ordinance shall be deemed invalid, the remaining portions shall remain in full force and effect.

ARTICLE FOURTEEN, EFFECTIVE DATE

14.1 Effective Date. The Effective Date of this ordinance shall be the date the Secretary of the Interior or their designee certifies the ordinance and publishes it in the Federal Register.

ARTICLE FIFTEEN, AMENDMENT

15.1 Amendment. This ordinance may be amended by a majority vote of the General Council or its designee at a duly noticed meeting. Such amendment to become effective upon publication in the federal register by the Secretary of the Interior or their designee.

ARTICLE SIXTEEN, PROFITS

16.1 Profits. The gross proceeds collected by the Tribe from all licensing of the Sale, manufacture and distribution of Alcoholic Beverages within the Tribe's Jurisdiction, and from proceedings involving violations of this ordinance, shall be distributed as follows:

(a) First, for the payment of all necessary Personnel, administrative costs, and legal fees incurred in the enforcement of this ordinance; and

(b) Second, the remainder shall be turned over to the Tribe's General Fund and expended for governmental services and programs as directed by the Tribe or its designee.

[FR Doc. 2026-03107 Filed: 2/17/2026 8:45 am; Publication Date: 2/18/2026]