

TABLE OF CONTENTS:

Chapter 1 – General Provisions.....1

Chapter 2 – Definitions.....2

Chapter 3 – Sale of Alcoholic Beverages.....3

Chapter 4 – Jurisdiction, Licensing and Fees.....4

Chapter 5 – Prohibited Activities.....5

Chapter 6 – Violations.....6

Chapter 7 – Taxes.....7

Chapter 8 – Severability & Miscellaneous.....7

Chapter 9 – Amendment.....7

Chapter 10- Sovereign Immunity.....8

CHAPTER ONE GENERAL PROVISIONS

- I. **Title** – This Ordinance shall be known as the “Alcoholic Beverage Control Ordinance. The Tribe previously passed Ordinance I-70 which was certified by the Commissioner of Indian Affairs on June 16, 1970, and published in the Federal Register on June 25, 1970, authorizing the introduction, sale or possession of intoxicating beverages on the Rocky Boy’s Reservation (35 F.R. 10384 (1970). This Ordinance replaces Ordinance I-70 to include the following provisions as adopted by the Chippewa Cree Tribal Business Committee.
- II. **Purpose** – This Ordinance regulates the consumption, delivery and sale of alcoholic beverages within the exterior boundaries of the Rocky Boy’s Reservation and other lands subject to Tribal jurisdiction for the purpose of protecting the health, safety and welfare of the Chippewa Cree Tribe and its members as well as the general public.
- III. **Authority** – This Alcoholic beverage Control Ordinance is enacted pursuant to Article VI, Section 1(p) of the Constitution and Bylaws of the Chippewa Cree Tribe. Federal law currently prohibits the introduction of alcoholic beverage into Indian Country (18 U.S.C. § 1154), and expressly delegates to tribes the decision regarding when and to what extent alcoholic beverage transactions shall be permitted (18 U.S.C. § 1161). Unless otherwise provided in this Ordinance, standards for the sale and transaction of alcoholic beverages shall be in conformity with the laws of the State of Montana, as required by, and in accordance with 18 U.S.C. § 1161.
- IV. **Declaration of Public Policy:**
 - A. The introduction, possession, and sale of alcoholic beverage on the Rocky Boy’s Reservation are a matter of special concern to the Chippewa Cree Tribe.
 - B. Compliance with this ordinance shall be in addition to, and not a substitute for, compliance with the laws of the State of Montana.
 - C. In 1970, the Chippewa Cree Tribe passed Ordinance I-70, authorizing the introduction, sale or possession of alcoholic beverages on the Rocky Boy’s Reservation. This Ordinance replaces Ordinance I-70 recognizing that a need still exists for strict regulation and control over alcoholic beverages transactions within the Rocky Boy’s Reservation because of the many potential problems associated with the unregulated or inadequately regulated sale, possession, distribution, and consumption of alcoholic beverages. The Chippewa Cree Tribal Business Committee finds that Tribal control and regulation of alcoholic beverages necessary to achieve maximum economic benefit to the Tribe, to protect the health and welfare of Tribal members, and

to address specific concerns relating to alcohol use on the Rocky Boy's Reservation.

- D. It is in the best interests of the Chippewa Cree Tribe to enact a Tribal ordinance governing alcoholic beverage sales on the Rocky Boy's Reservation, which provides for purchase, distribution, and sale of alcoholic beverages only on specific Tribal lands within the exterior boundaries of the Rocky Boy's Reservation, as designated by this Ordinance. Further, the Tribe has determined that said purchase, distribution, sale, and consumption shall take place only at a Tribally-owned gaming facility complex or at such other location duly licensed by the Chippewa Cree Tribe.
- V. **Limited Application** – The consumption, delivery and sale of alcoholic beverages shall be limited solely to Tribally designated entities located within the exterior boundaries of the Rocky Boy's Reservation as designated by the Chippewa Cree Tribal Business Committee.

CHAPTER TWO DEFINITIONS

I. **Definitions:**

- A. "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.
- B. "Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more than one-half of one percent (0.5%) of alcohol by volume.
- C. "Beer" means any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, hops or any similar products or any combination thereof.
- D. "Liquor" means an alcoholic beverage except beer and wine.
- E. "Rocky Boy's Reservation" means all lands held in trust by the United States for the Tribe or its members and all lands owned by the Tribe, wherever located.
- F. "Sell" or "sold" means any transfer of alcoholic beverages with consideration, any transfer without consideration if knowingly made for the purposes of evading the law relating to the sale of alcoholic beverages, the soliciting or receiving an order to sell or keep for future delivery alcoholic beverages, the peddling of alcoholic beverages, or the keeping with intent to sell any alcoholic beverages.

G. "Sale" includes every act of selling as defined in subsection (f) of this section.

H. "State" means the State of Montana.

1. "Tribally Designated Entity" means the Chippewa Cree Tribally-owned gaming facility complex operated on Tribally owned land, also known as North Winds Casino, or other such Tribal entity designated by the Chippewa Cree Tribal Business Committee by resolution as the proper entity to sale alcoholic beverages.

2. "Wine" means a beverage made from or containing the alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains not more than twenty-four percent (24%) of alcohol by volume. Other alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine.

CHAPTER THREE SALE OF ALCOHOLIC BEVERAGES

I. **Tribal Alcoholic Beverage License Required** – No sales of alcoholic beverages shall be made within the exterior boundaries of the Rocky Boy's Reservation, except at a Tribally licensed, Tribally designated entity. Nothing in this section shall prohibit a Tribal licensee or the Tribe from purchasing alcoholic beverages from an off-Reservation source for resale on the Reservation nor prohibit the delivery of alcoholic beverages purchased from off-Reservation sources to the Reservation for a Tribal licensee of alcoholic beverages to resale on the Reservation.

II. **Limited to Tribally Designated Entities** – The consumption, delivery and/or sale of alcohol or alcoholic beverages is confined to location(s) of the Tribally designated entities.

III. **Sales for Personal Use; Resale Prohibited** – All sales allowed under this Ordinance shall be for personal use of the individual purchaser. Resale of any alcoholic beverage is prohibited and violators shall be prosecuted and subject to penalties under this Ordinance.

IV. **Sales Limited to Adults** – All handling, stocking, possession, and sale of alcoholic beverage shall be made by persons twenty-one (21) years of age or older. Proof of age must be shown by a current and valid state driver's license or other federal, state, or tribal government issued identification that contains birth date and photo of the holder of the license or identification.

Comment [11/13]

Comment [11/13]

- V. **Right to Refuse Sale** – Any person or entity authorized to sell alcoholic beverages under this Ordinance shall have the authority to refuse to sell alcoholic beverage to any person unable to produce proof of age and identity.
- VI. **Liability Insurance** – Any entity authorized to dispense, sell, serve or deliver alcohol under this Ordinance shall obtain general liability insurance in the amount not less than \$1,000,000 per occurrence.

CHAPTER FOUR JURISDICTION, LICENSING AND FEES

- I. **Jurisdiction** – The Chippewa Cree Tribal Court is vested with original jurisdiction to hear and decide all matters arising pursuant to this Ordinance.
- II. **License Applications:**
 - A. Alcoholic beverage license applications shall be filed with the Secretary/Treasurer of the Chippewa Cree Tribe containing the following information:
 - 1. The name of the Tribally designated entity where the sale and consumption of alcoholic beverages would take place. Such entity shall be the applicant. No individual or private entity may apply for or receive a license under this Ordinance.
 - 2. A copy of the Tribal resolution under which the applicant was created or approved by the Chippewa Cree Tribe.
 - 3. Physical address or description of the land where sale and consumption of alcoholic beverages would take place.
 - B. Upon receipt of proper application, the Tribal Business Committee shall issue an alcoholic beverage license under this Ordinance if the Tribal Business Committee finds, in its sound discretion, on the basis of facts disclosed by the application that such issuance is in the interest of the Tribe.
- III. **Scope of License** – A license issued under this Ordinance shall permit the licensee to dispense, sell, serve or deliver alcohol only at the Tribally designated entity approved by the Tribal Business Committee and subject to any conditions on the license.
 - A. Each license shall specify the following:
 - 1. Particular alcoholic beverages that the licensee is authorized to dispense, sell, serve or deliver;

2. Licensee's mailing and physical address and business or trade name; and
3. Purpose for which the alcoholic beverages shall be dispensed, sold, served or delivered.
4. Each license shall explicitly state that its continued validity is dependent upon the compliance of its holder with all the provisions of this Ordinance and other applicable law.

IV. Expiration/Renewal of License – Every license expires annually, measured from the date of issuance and a licensee must renew the license annually.

- A. A licensee who fails to renew the license on or before the due date shall pay a penalty of one hundred dollars (\$100) with their application for renewal along with the renewal fee;
- B. A license renewal application that is properly addressed, postage provided, and deposited in an official depository of the United States on or before the due date shall be deemed filed and received by the Tribe on the date shown by the postmark or other official mark of the United States postal service;
- C. A licensee who fails to renew the license on or before the due date shall not dispense, sell, serve or deliver or otherwise deal in alcoholic beverage until the license is renewed; and
- D. A license not renewed within twenty (20) working days after the due date shall be deemed terminated.

V. Fees – All applications for alcoholic beverage licenses shall include full payment of the fees paid to the Tribe's Treasurer's office and deposited in the Chippewa Cree Tribe's general fund.

- A. Application fees for a Tribal Alcoholic Beverage License – one thousand dollars (\$1000.00);
- B. Annual renewal fee – one hundred dollars (\$100.00); or
- C. As set by Tribal resolution of the Tribal Business Committee.

CHAPTER FIVE PROHIBITED ACTIVITY

- I. It shall be unlawful for any person or entity to dispense, sell, serve, deliver, or otherwise deal in alcoholic beverages on the Rocky Boy's Reservation except as provided for in this Ordinance.

- II. Except for a licensed Tribally designated entity, it shall be unlawful for any business establishment or person on the Rocky Boy's Reservation to possess with the intent to sell, distribute, barter, or trade to another any alcoholic beverage; provided, however, that a person or entity may transport alcoholic beverages from off the reservation to the licensed Tribally designated entity, consistent with the terms of the license.
- III. It shall be unlawful for any person to publicly consume any alcoholic beverage at any community function, or at or near any place of business, celebration grounds, recreational areas, ballparks, public camping areas, Tribal offices, Tribal headquarters, schools, and any other area where minors gather for meetings or recreation, except within a Tribal licensed establishment where alcohol is sold.
- IV. It shall be unlawful for any person under the age of twenty-one (21) years old to buy, to attempt to buy, to misrepresent their age in attempting to buy, to transport, to possess, to consume, or to be under the influence any alcoholic beverage. It shall be unlawful for any person under the age of twenty-one (21) years old to be at an establishment where alcoholic beverages are dispensed, sold, served or delivered, except as provided under Section 4.6 of this Ordinance.
- V. It shall be unlawful for any person to sell or furnish alcoholic beverage to any person under the age of twenty-one (21) years old.
- VI. Alcoholic beverages may not be given as a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of any kind.
- VII. The licensee under this Ordinance may employ persons eighteen (18), nineteen (19) and twenty (20) years of age who may take orders for, serve and sell alcoholic beverages in any part of the licensed premises when that activity is incidental to the serving of food except in those areas classified as prohibited to the use of minors.
 - A. However, no person who is 18, 19 or 20 years of age shall be permitted to mix, pour or draw alcoholic beverages except when pouring is done as a service to the patron at the patron's table or drawing is done in a portion of the premises not prohibited to minors; and
 - B. Except as stated in this section, it shall be unlawful to hire any person to work in connection with the sale and service of alcoholic beverages in a Tribally licensed alcoholic beverage establishment if such person is under the age of twenty-one (21) years.

CHAPTER SIX VIOLATIONS

- I. **Jurisdiction** – Any person or entity who violates the provisions of this Ordinance may be subject to a civil penalty in Tribal Court for a civil infraction.
- II. **Penalty** – Upon a determination by the Chippewa Cree Tribal Court that a licensee has violated any provision of this Ordinance, any or all of the following sanctions may be imposed:
 - A. Suspension of alcoholic beverage license;
 - B. Revocation of alcoholic beverage license; or
 - C. Civil fine in amount established by the Court which shall not exceed the sum of \$1,000 for each infraction, provided, however, that the full fine shall not exceed \$5,000 if it involves minors.

CHAPTER SEVEN TAXES

[Reserved]

CHAPTER EIGHT SEVERABILITY AND MISCELLANEOUS

- I. **Severability** – If the Chippewa Cree Tribal Court finds any provision of this Ordinance to be invalid or illegal under applicable Federal or Tribal law, such provision shall be severed from this Ordinance and the remainder of this Ordinance shall remain in full force and effect.
- II. **Conformance with Tribal, State and Federal Law** – This Ordinance shall conform with all Tribal laws. All provisions and transactions under this Ordinance shall be in conformity with any applicable State laws regarding alcohol to the extent required by 18 U.S.C. § 1161 and with all federal laws regarding alcohol in Indian Country.
- III. **Enforcement** – All actions brought by the Chippewa Cree Tribe to enforce the provisions of this Ordinance shall be filed in the Chippewa Cree Tribal Court.
- IV. **Effective Date** – This Ordinance becomes effective as a matter of Tribal law upon approval by the Chippewa Cree Tribal Business Committee and effective as a matter of Federal law on such date as the Assistant Secretary of Indian Affairs or his/her designee certifies the Ordinance and publishes it in the Federal Register.

CHAPTER NINE AMENDMENT

This Ordinance may be amended or repealed by a majority vote of the Chippewa Cree Tribal Business Committee.

**CHAPTER TEN
SOVEREIGN IMMUNITY**

Nothing in this Ordinance is intended to nor does in anyway limit, alter, restrict or waive the Tribe's sovereign immunity from unconsented suit or action