

# **COQUILLE INDIAN TRIBAL CODE**

## **Chapter 200**

### **Part 2 – Economic Development**

#### **Liquor Control**

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**200.010      General**

1. Purpose.      This Ordinance is for the purpose of regulating the sale, possession and use of alcoholic liquor on the Coquille Indian Reservation and other lands subject to Tribal jurisdiction. The enactment of this ordinance will increase the ability of the Tribal government to regulate liquor distribution and possession on the Coquille Indian Reservation, as defined below.
2. Background.      Subject to certain limitations, Article VI, Section 1 of the Constitution of the Coquille Indian Tribe vests the Coquille Tribal Council with legislative and executive authority, including the authority to adopt this Ordinance. This Ordinance replaces CITC Chapter 200, enacted on May 9, 1995 and which remained in effect until adoption of this restatement.
3. Jurisdiction.      This Ordinance conforms to all requisite laws as required by 18 U.S.C. §1161.

**200.120      Definitions**

To the extent that definitions are consistent with tribal or federal law, terms used herein shall have the same meaning as defined in Oregon Revised Statutes Chapter 471, and in Oregon Administrative Rules Chapter 845.

- 1      "Alcoholic liquor" shall mean any alcoholic beverage containing more than one- half of one percent alcohol by volume, and every liquid or solid, patented or not, containing alcohol and capable of being consumed by a human being.
2.      "Coquille Indian Reservation" shall mean all lands held in trust by the United States for the Tribe or its members and all lands over which the Tribe exercises jurisdiction, wherever located.
3.      Whenever the words "sell" or "to sell" refer to anything forbidden by this Chapter and related to alcoholic liquor, they include:
  - (a)      To solicit or receive an order
  - (b)      To keep or expose for sale
  - (c)      To deliver for value or in any way other than purely gratuitously
  - (4)      To peddle
  - (d)      To keep with intent to sell
  - (e)      To traffic in, or

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(f) To engage in a transaction for any consideration or promise obtained directly or indirectly under any pretext or by any means or to procure or allow to be procured for any other person.

(d) The word "sale" includes every act of selling as defined in subsection (3) of this section.

(e) The word "person" includes a human being or any entity that is recognized by law as having the rights and/or duties of a human being.

**200.150 Civil Violation.**

In addition to being grounds for revocation of a license, any of the following shall be a civil violation prosecutable under CITC Chapter 650, unless they are otherwise authorized by this Ordinance:

1. For any person to sell, trade or manufacture any alcoholic liquor on the Coquille Indian Reservation except as provided for in this Ordinance.
2. For any business establishment or person on the Coquille Indian Reservation to possess, transport or keep with intent to sell, barter or trade to another, any liquor, except for those commercial liquor establishments on the Coquille Indian Reservation licensed by the Tribe, provided, however, that a person may transport liquor from a licensed establishment consistent with the terms of the license.
3. For any person to consume alcoholic liquor on a public highway.
4. For any person to publicly consume any alcoholic liquor at any community function, or at or near any place of business, Indian celebration grounds, recreational areas, including ballparks, and public camping areas, Tribal government facilities, Coquille Indian Housing Authority facilities, and any other public area where minors gather for meetings or recreation, except within a tribally licensed establishment where alcohol is sold.
5. For any person under the age of 21 years to buy, attempt to buy or to misrepresent their age in attempting to buy, alcoholic liquor.
6. For any person under the age of 21 years to transport, possess or consume any alcoholic liquor on the Coquille Indian Reservation, or to be under the influence of alcohol or to be at an established commercial liquor establishment, except as authorized under this Ordinance.
7. For any person to sell or furnish alcoholic liquor to any person under 21 years of age.

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8. For alcoholic liquor be given as a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of any kind.

**200.200 Licensing Procedure**

1. Requests for a license under this Ordinance must be presented to the Tribal Council at least 30 days prior to the requested effective date. Tribal Council shall set license conditions at least as strict as those required by federal law, including at a minimum:

(a) Alcoholic Liquor may only be served and handled in a manner no less strict than allowed under Oregon Revised Statutes Chapter 471.

(b) Alcoholic Liquor may only be served by employees of the licensee; and

(c) Alcoholic Liquor may be served in rooms where gambling is taking place if authorized by Tribal Council resolution.

2. Tribal Council action on a license request must be taken at a regular or special meeting.

3. Unless the request is for a special event license, the Tribal Council shall give at least 14 days' notice of the meeting at which the request will be considered. Notice shall be posted at the Tribal government administration building and at the establishment requesting the license, and will be sent by Certified Mail to the Oregon Liquor Control Commission.

4. The Tribal Council may revoke a license for reasonable cause upon notice and hearing at which the licensee is given an opportunity to respond to any charges against it and to demonstrate why the license should not be suspended or revoked.

5. Licenses issued by the Tribe shall not be transferable any may only be utilized by the person in whose name it was issued.

**200.300 Sale or Service of Liquor by Licensee's Minor Employees**

1. The holder of a license issued under this Ordinance or Oregon Revised Statutes Chapter 472 may employ persons 18, 19 and 20 years of age who may take orders for, serve and sell alcoholic liquor in any part of the licensed premises when that activity is incidental to the serving of food except in those areas classified by the Oregon Liquor Control Commission as being prohibited to the use of minors. However, no person who is 18, 19 or 20 years of age shall be permitted to mix, pour or draw alcoholic liquor 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.

2. 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 liquor establishment if such person is under the age of 21 years.

**200.350 Memorandums of Understanding with the State of Oregon regarding Certain Liquor Licensing and Regulation.**

1. Notwithstanding any other provision of this Ordinance, the Tribe hereby authorizes and ratifies the negotiation and execution of the September 1, 2004 document entitled Memorandum of Understanding Governing Liquor Licensing and Regulation (the "MOU") between the Tribe and the State of Oregon, and this authorization and ratification shall be retroactive to September 1, 2004. Moreover, with regard to the sale of Alcoholic Liquor at an establishment described in the MOU any provision of this Ordinance shall yield to a conflicting provision of the MOU.

2. Notwithstanding any other provision of this Ordinance the sale of Alcoholic Liquor, by the Tribe or an entity owned by the Tribe, at an establishment described in the MOU shall be governed exclusively by the terms of the MOU.

**200.400 Warning Signs Required**

1. Any person in possession of a valid retail liquor license, who sells liquor by the drink for consumption on the premises or sells for consumption off the premises, shall post a sign informing the public of the effects and risks of alcohol consumption during pregnancy as required under this section.

2. The sign shall:

(a) Contain the message: "Pregnancy and alcohol do not mix. Drinking alcoholic beverages, including wine, coolers and beer, during pregnancy can cause birth defects."

(b) Be either:

(1) A large sign, no smaller than eight and one-half inches by 11 inches in size with lettering no smaller than five-eighths of an inch in height; or

(2) A reduced sign, five by seven inches in size with lettering of the same proportion as the large sign described in paragraph (1) of this subsection.

(c) Contain a graphic depiction of the message to assist nonreaders in understanding the message. The depiction of a pregnant female shall be universal and shall not reflect a specific race or culture.

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(d) Be in English unless a significant number of the patrons of the retail premises use a language other than English as a primary language. In such cases, the sign shall be worded both in English and the primary language or languages of the patrons.

(e) Be displayed on the premises of all licensed retail liquor premises as either a large sign at the point of entry, or a reduced sized sign at points of sale.

**200.500 Violations of this Ordinance**

1. Any person who violates the provisions of this Ordinance is deemed to have consented to the jurisdiction of the Tribal Court and may be subject to a civil penalty in Tribal Court for a civil violation. Such civil penalty shall not exceed the sums described in CITC Chapter 650.
2. Such civil violations shall be prosecuted under the procedures set forth in CITC Chapter 650.
3. The Tribal Council hereby specifically finds that such civil penalties are reasonably necessary and are related to the expense of governmental administration necessary in maintaining law and order and public safety on the Reservation and in managing, protecting and developing the natural resources on the Reservation. It is the legislative intent of the Tribal Council that all violations of this Chapter, whether committed by tribal members, non-member Indians, or non-Indians, be considered civil in nature rather than criminal.

**200.600 Severability**

If a court of competent jurisdiction 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.

**200.700 Compliance with 18 U.S.C. 1161**

The Tribe will comply with Oregon Liquor Laws to the extent required by 18 U.S.C. 1161.

**200.800 Effective Date**

This Ordinance shall be effective upon publication in the Federal Register after approval by the Secretary of the Interior or his designee.

**200.900 Sovereign Immunity**

Nothing in this Ordinance waives the sovereign immunity of the Coquille Indian Tribe or any of its officers, directors or employees.

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History of Amendments to Chapter 200 Liquor Control Ordinance:

5/9/95

Adopted 2/28/09 CY0933

Amended 5/21/09 CY0986