

CHAPTER 31
STOCKBRIDGE-MUNSEE TRIBAL LAW
LIQUOR CONTROL ORDINANCE

WHEREAS, Public Law 277, 83rd Congress, 1st Session, approved August 15, 1953 and codified at sec. 1161 of Title 18, United States Code, provides that Sections 1154, 1156, 3113, 3488, 3618 of Title 18 of the United States Code shall not apply within any area that is not Indian Country, nor to any act or transaction within any area of Indian Country, provided such act or transaction is in conformity both with the laws of the State in which such act or transaction occurs and with an ordinance duly adopted by the Tribe having jurisdiction over such area of Indian Country, certified by the Secretary of the Interior, and published in the Federal Register; and

WHEREAS, it is the desire of the Tribal Council of the Stockbridge-Munsee Community of Wisconsin to adopt a liquor control ordinance in the Indian Country that lies within the jurisdiction of the Community; and

WHEREAS, the Tribal Council of the Stockbridge-Munsee Community of Wisconsin has the authority to adopt ordinances regulating liquor in the Indian Country that lies within the jurisdiction of the Community, by virtue of the provisions of Article VII, sections 11(a), (e) and (h) of the Constitution of the Stockbridge-Munsee Community of Wisconsin, adopted October 30, 1937;

NOW THEREFORE BE IT RESOLVED that the Tribal Council of the Stockbridge-Munsee Community of Wisconsin authorizes the issuance of licenses for sale of alcohol beverages within the Indian Country that lies within the jurisdiction of the Community, provided:

Section 31.1 Licenses

(A) Licenses for the sale of alcohol beverages may be issued for sale of such beverages for casinos, entertainment facilities, convenience stores and restaurant-bar operations owned and regulated by the Stockbridge-Munsee Community. This license includes sales for special outdoor events and the sale of beer for consumption on the golf course.

(B) Any restaurant-bar operation must produce more than 50% of its gross sales from food service in order to be licensed after the first year of operation.

(C) Licenses issued to businesses owned by the Stockbridge-Munsee Community for the sale of alcohol beverages shall be issued by the Tribal Council of the Community, upon the receipt by the Tribal Council of a proper application containing the following information:

- (1) The name of the entity that regulates the Community business at which the sale of alcohol beverages would take place. Such entity shall be the license

applicant. No individual or private entity may apply for or receive a license under this Ordinance.

(2) A copy of the Community ordinance or resolution under which the applicant entity is organized.

(3) A description of the land or building owned by the Community and regulated by the applicant entity at which the applicant entity wishes to sell alcohol beverages.

(4) A statement that the applicant entity will conform to all requirements of applicable Tribal, State and Federal law, as they relate to the purchase and sale of alcohol beverages.

(D) Upon receipt of a proper application under this Ordinance, licenses for the sale of alcohol beverages may be issued by the Tribal Council of the Community to a Tribal business of the Community if the Tribal Council finds, in its sound discretion, on the basis of the facts disclosed by the application and by such additional information as the Tribal Council may deem relevant, that such issuance is in the interest of the Community.

(E) Licenses for the sale of alcohol beverages issued by the Tribal Council shall contain the following requirements:

(1) Each license shall require its holder to conform its operations to the laws of the Community, the State of Wisconsin and the United States of America;

(2) No license shall be effective for a term of more than one year from the date of its issuance, and each renewal thereof(3) 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.

(3) 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.

(F) The Tribal Council of the Community shall have the authority to suspend or revoke any license issued under this Ordinance, under the following procedures:

(1) Upon receiving information suggesting that the holder of a license under this Ordinance may have violated the terms of the license or applicable law, the Tribal Council shall give the license holder written notice that the Tribal Council intends to suspend or revoke the holder's license. Such notice shall be sent by certified mail, return receipt requested, to the agent of the license holder and shall specify the grounds for the proposed suspension or revocation.

(2) Any license holder who receives a notice of a proposed suspension or revocation may request a hearing by the Tribal Council, by sending a written request therefor, certified mail, return receipt requested, to the Chairman of the Stockbridge-Munsee Community, at the Community's Tribal Center, within seven (7) days of the license holder's receipt of the notice.

(3) Upon receipt of a request for a hearing under this Ordinance, the Tribal Council shall set a date for a hearing, which shall be not later than thirty days from the date of the receipt of the hearing request.

(4) At a hearing held under this Ordinance, the holder of a license under this Ordinance shall be permitted to present evidence with respect to the holder's compliance with the terms of its license and applicable law. In reaching its decision, the Tribal Council may consider such evidence, together with all other evidence it deems relevant. Following a hearing, if in the judgment of the Tribal Council the license holder has not complied with the terms of its license and applicable law, the Tribal Council shall suspend or revoke its license; and if in the judgment of the Tribal Council the terms of the license and applicable law have been complied with, the proceedings shall be dismissed. In either case, the decision of the Tribal Council shall be final.

(G) The Tribal Council of the Stockbridge-Munsee Community may reject any application for a license, or for a renewal of a license, under this Ordinance, if the applicant previously has committed acts which have resulted in the suspension or revocation of a license under this Ordinance.

Section 31.2 Agent

Any tribally owned entity licensed under this Ordinance shall appoint, subject to the approval and confirmation of the Tribal Council, an agent who shall have full authority and control of the premises and of the conduct of all business on the premises relative to alcohol beverages. This person shall also be the person designated by Wis. Stats. sec. 125.04(6) requiring the appointment of agents.

Section 31.3 Authority of the Tribal Council

(A) The Tribal Council, or any individual member thereof or any person acting with prior written authorization of the Tribal Council may enter any premises licensed under this ordinance at any time to observe the activities taking place.

(B) Written authorization may be enacted at a closed session of the Tribal Council and remain confidential until any report made by such person is before the Tribal Council for action or until such person seeks to gain access to the premises of any Tribally licensed facility during normal closed hours in which case it shall be presented to the Manager on duty at the time, and said Manager shall immediately admit the person to the premises.

(C) Tribal Council members do not need such written authorization and may enter any Tribally licensed facility at any time upon identifying themselves if such admission is sought during normal closed hours.

Section 31.4 Separate Licenses for Each Facility

Each Tribally owned entity licensed under this Ordinance shall be required to file a separate application and hold a separate license for each facility it operates.

Section 31.5 Transfer of Licenses Prohibited

No license issued under this Ordinance may be transferred to any other entity or person.

Section 31.6 State Law Applicable

The Stockbridge-Munsee Community recognizes the applicability of general State law governing the sales of alcohol beverages.

Section 31.7 State Law Adopted

The Stockbridge-Munsee Community hereby adopts for purposes of Tribal enforcement against any entity licensed by the Tribe under this ordinance the following provisions, as modified, of Chapter 125 of the Wisconsin Statutes:

- 125.02 Definitions. Except as otherwise provided, in this ordinance:
- 125.02 (1) "Alcohol beverages" means fermented malt beverages, wine and intoxicating liquor as defined below.
- 125.02 (6) "Fermented malt beverage" means any beverage made by the alcohol fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing 0.5% or more alcohol by volume.
- 125.02 (8) "Intoxicating liquor" means all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever named called, containing 0.5% or more of alcohol by volume, which are beverages, but does not include "fermented malt beverages".
- 125.02 (22) "Wine" means products obtained from the normal alcohol fermentation of the juice or must of sound, ripe grapes, other fruits or other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry, mead and sake, if such products contain 0.5% or more of alcohol by volume.

- 125.02 (8m) "Legal drinking age" means 21 years of age.
- 125.02 (14) "Person" means a natural person, sole proprietorship, partnership, corporation or association.
- 125.02 (14m) "Premises" means the area described in a license issued by the Tribal Council.
- 125.02 (17) "Regulation" means any rule or ordinance adopted by the Tribal Council.
- 125.02 (20) "Sell", "sold", "sale" or "selling" means any transfer of alcohol beverages with consideration or any transfer without consideration if knowingly made for purposes of evading the law relating to the sale of alcohol beverages or a device, scheme or transaction for obtaining alcohol beverages, including the solicitation of orders for, or the sale for future delivery of, alcohol beverages.
- 125.02 (20) "Underage person" means a person who has not attained the legal drinking age.
- 125.04 (1) General licensing requirement. No person may sell, manufacture, rectify, or brew any alcoholic beverage, or engage in any other activity for which this ordinance provides a license without holding the appropriate license.
- 125.04 (2) No license to be issued in violation of this ordinance. No license may be issued to any person except as provided in this ordinance. Any license issued in violation of this ordinance is void.
- 125.04 (10) License to be framed and posted.
- (a) Frame. Licenses for the sale of alcohol beverages shall be enclosed in frame having a transparent front which allows the license to be clearly read.
- (b) Display. Licenses shall be conspicuously displayed for public inspection at all times in the room or place where the sale of alcohol beverages is carried on.
- 125.07 Underage and intoxicated persons; presence on licensed premises; possession; penalties.
- (a) Alcohol beverages; Restrictions relating to underage persons.
- (1). No person may procure for, sell, dispense or give away any alcohol beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

- (2) No licensee may sell, vend, deal or traffic in alcohol beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
- (3) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises under the adult's control.
- (4) No adult may intentionally encourage or contribute to a violation of this section.

125.07 (2) (b) Sales of alcohol to intoxicated persons.

- (1) No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.
- (2) No licensee may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.

125.85 Any Tribal entity selling alcohol beverages shall require the proof of age specified by this section.

- (a) Definition. In this section, "official identification card" means a valid operator's license issued under chapter 343 of the Wisconsin Statutes that contains the photograph of the holder, an identification card issued under section 343.50 of the Wisconsin Statutes or an identification card issued under section 125.08 of the Wisconsin Statutes.
- (b) Use. No card other than the identification card authorized under this section may be recognized as an official identification card by the Tribe for purposes of obtaining alcohol beverages at any Tribally licensed entity.

Section 31.8 Closing Hours

Every entity licensed by the Stockbridge-Munsee Community shall observe the closing hours established by Wisconsin Statutes governing Class B Retail State licenses. Failure to do shall be the basis for the revocation of licenses issued by the Tribal Council.

LEGISLATIVE HISTORY

Approved by Council May 22, 1992, Resolution No. 1317. This ordinance necessary to sell liquor in casino facility.

Recommended for approval by BIA in letter dated July 16, 1992, from Ashland office to Minneapolis Area Office.

Approved by Council January 20, 1998, Resolution #04-98. Section 31.1(E)(4) is stricken to allow the ability to provide complimentary beverages at the Casino. The amendment was effective May 13, 1998, 63 Fed. Reg. 26621 (1998). Legislative Note: This amendment was not properly incorporated into the Ordinance in 1998. Upon this discovery in 2004 by the Legislative Attorney, this amendment was incorporated into the Ordinance on June 9, 2004.

Amended by Council September 7, 1999, Resolution #058-99, allowing for sale of beer on a golf course.

Amended by Council November 2, 1999, Resolution # 075-99, allowing for sale of alcohol off premises at a Tribal convenience store.

Approved by BIA, letter dated June 12, 2000.