

Title 15 – Business Regulations

Chapter 4 – Liquor

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Legislative History

Enacted:

Ordinance 296 Enacting Swinomish Tribal Code Title 15, Chapter 4: Liquor Legalization, Regulation and License Code, (8/4/11); BIA publication 77 FR 39731-39733 (effective 8/4/2012).

Ordinance 27 Authorizing the Introduction, sale or Possession of Intoxicating Beverages Within the Swinomish Indian Reservation (6/7/66).

Repealed and Superseded:

Ordinance 295 Repealing Title 15, Chapter 4 and Parts of Ordinance No. 174, and Confirming Continuing Effect of Ordinance No. 27, (8/4/11); BIA (8/12/11).

Ordinance 186 Amending STC Chapter 15-04 and Ordinance 174, (9/30/03), BIA (10/8/03).

Ordinance 174 Liquor Legalization, Regulation and License Code, (9/5/03), BIA (9/12/03).

Ordinance 139 Amending Ordinance 28, (4/3/00), BIA (4/16/00).

Ordinance 28 Regulating the issuance of permits and licenses for the sale of beer, wine and liquor on the Swinomish Indian Reservation, (8/21/67); BIA (9/1/67).

[Ed. Note. The Department of the Interior published a copy of the ordinance Enacting Swinomish Tribal Code Title 15, Chapter 4: Liquor Legalization, Regulation and License Code (Ordinance 296) in the Federal Register in accordance with 18 U.S.C.A. §1161. 77 Fed. Reg. 39731 (July 5, 2012).]

[Ed. Note. The Department of the Interior published a copy of the ordinance Authorizing the Introduction, Sale, or Possession of Intoxicating Beverages Within the Reservation (Ordinance 27) in the Federal Register in accordance with 18 U.S.C.A. §1161. 31 Fed. Reg. 13948 (November 1, 1966).]

15-04.010 Title.

This Chapter shall be referred to as the Liquor Legalization, Regulation and License Code.

[History] Ord. 296 (8/4/11); Ord. 295 (8/4/11); Ord. 174 (9/5/03).

15-04.020 Authority.

This Chapter is enacted pursuant to authority provided by Article VI, Section (1)(h), (k) and (l) of the Constitution. In addition, this Chapter is adopted in accordance with 18 U.C.S.A. §1161.

[History] Ord. 296 (8/4/11); Ord. 295 (8/4/11); Ord. 174 (9/5/03); Ord. 28 (7/11/67); Ord. 27 (6/7/66).

15-04.030 Definitions.

For purposes of this Chapter, unless otherwise expressly provided, the following definitions shall apply:

- (A) **“Engaging in the retail intoxicating beverage business”** means either maintaining a retail liquor, beer and/or wine establishment within the Indian Country under the jurisdiction of the Tribe or making sales of liquor, beer and/or wine at retail within the Indian Country under the jurisdiction of the Tribe.
- (B) **“Indian country,”** consistent with the meaning given in 18 U.S.C. §§ 1151, 1154, and 1156, means:
 - (1) All land within the limits of the Swinomish Indian Reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent provided that the term “patent” does not include fee-patented lands in non-Indian communities; and
 - (2) All Indian allotments or other lands held in trust for a Swinomish tribal member or the Tribe, or otherwise subject to a restriction against alienation imposed by the United States, the Indian titles to which have not been extinguished.
- (C) **“Reservation”** means all lands and waters within the exterior boundaries of the Swinomish Indian Reservation.
- (D) **“Senate”** means the Swinomish Indian Senate.

(E) **“Tribal License”** means a license issued by the Swinomish Indian Tribal Community to any person, association, firm, corporation, or partnership, or any individual or group of individuals wishing to engage in the retail sale of liquor, beer and/or wine within the Indian Country under the jurisdiction of the Tribe.

(F) **“Tribe”** means the Swinomish Indian Tribal Community.

[History] Ord. 296 (8/4/11); Ord. 295 (8/4/11); Ord. 186 (9/30/03); Ord. 174 (9/5/03); Ord. 28 (7/11/67).

15-04.040 Legalizing the Introduction, Sale or Possession.

The introduction, sale or possession of intoxicating beverages shall be lawful within the Indian Country under the jurisdiction of the Tribe, provided that such introduction, sale or possession is in conformity with the laws of the State of Washington and in conformity with this Chapter.

[History] Ord. 296 (8/4/11); Ord. 295 (8/4/11); Ord. 174 (9/5/03); Ord. 27 (6/7/66).

15-04.050 Application for Tribal License Required and License Fee.

- (A) Any person, association, firm, corporation, or partnership, or any individual or group of individuals engaged in the retail sale of intoxicating beverages within the Indian Country under the jurisdiction of the Tribe, regardless of whether the principal place of business is or is not located outside the Reservation, is required to have a Tribal License.
- (B) A Tribal License shall run from July 1st of one year through the 30th day of June the following year. The Senate or the Senate’s designee shall charge an annual fee in accordance with the attached fee schedule.
- (C) Applicants for an initial Tribal License and those seeking to renew a Tribal License shall make application and pay the annual fee to the Senate or its designee by June 30th of each year for the ensuing year, except if an initial application is made between January 1st and July 1st, the license fee shall be cut in half.
- (D) If the Senate or its designee denies an application for a Tribal License or denies an application to renew a Tribal License, the fee shall be returned to the applicant.

[History] Ord. 296 (8/4/11); Ord. 295 (8/4/11); Ord. 186 (9/30/03); Ord. 174 (9/5/03); Ord. 139 (4/3/00); Ord. 28 (7/11/67).

15-04.060 Investigation of Applicant for Tribal License.

Before the Senate issues a Tribal License, the applicant shall be investigated as to moral character and as to whether or not such person is acceptable to the members of the Tribe to

engage in a retail intoxicating beverage business within the Indian Country under the jurisdiction of the Tribe. The Senate or its designee may, in its discretion, set a time for public hearing and give reasonable notice for the time and place thereof before acting upon an application for a Tribal License.

[History] Ord. 296 (8/4/11); Ord. 295 (8/4/11); Ord. 174 (9/5/03); Ord. 28 (7/11/67).

15-04.070 Tribal License May Be Revoked.

A Tribal License may be revoked only for cause and upon a hearing, conducted by the Senate or its designee, with notice being mailed by registered mail to the holder of the Tribal License ten (10) days prior to such hearing, except a Tribal License may not be transferred without the approval and consent of the Senate. The grounds for revocation of a Tribal License are:

- (A) The failure to pay the Tribal License fee each year;
- (B) The violation of tribal ordinances duly passed or the laws of the State of Washington;
- (E) The acquisition of a Tribal License by fraud, misrepresentation, concealment, or through inadvertence or mistake;
- (F) The denial of the Senate or its authorized representatives, including authorized law enforcement agencies, access to any place where a licensed activity is conducted, or the failure to promptly produce for inspection or audit any book, record, document, or item required by law or Senate rule;
- (G) The denial, suspension, or repeal of any liquor-related license, permit, or certification by any tribal, state or federal regulatory agency; or
- (H) Transfer or attempted transfer of a Tribal License without the approval and consent of the Senate.

[History] Ord. 296 (8/4/11); Ord. 295 (8/4/11); Ord. 174 (9/5/03); Ord. 28 (7/11/67).

15-04.080 Transfer of Tribal Licenses.

- (A) No Tribal License may be transferred without the approval of the Senate or its designee.
- (B) Persons wishing to transfer a Tribal License must file an application for a transfer with the Senate or the Senate's designee. The application for a transfer shall include:
 - (1) The name(s) of the persons, group, or association to whom the transfer is to be made;

- (2) Any other information required of initial applicants in accordance with Section 15-04.050; and
 - (3) A statement, signed by the proposed transferee, designating the location of the premises where the Tribal License is to be used and operated.
- (C) Before any transfer of a Tribal License is approved, the Tribe shall investigate the moral character of the transferee and determine whether the proposed transferee is acceptable to the members of the Tribe to engage in said retail intoxicating beverage business within the Indian Country under the jurisdiction of the Tribe. The Senate may, in its discretion, set a time for public hearing and give reasonable notice of the time and place thereof before acting upon an application for transfer.
- (D) The approval of a transfer of a Tribal License shall be given at a duly called, noticed and convened session of the Senate.

[History] Ord. 296 (8/4/11); Ord. 295 (8/4/11); Ord. 174 (9/5/03); Ord. 28 (7/11/67).

15-04.090 Notification of the Liquor Control Board.

It shall be the responsibility of Tribal License holders to notify the Liquor Control Board of Washington State that an application has been made for a transfer of a Tribal License. The requisite Tribal License and state permit are required before any person, association, firm, corporation, or partnership, or any individual or group of individuals may engaged in the retail sale of intoxicating beverages within the Indian Country under the jurisdiction of the Tribe.

[History] Ord. 296 (8/4/11); Ord. 295 (8/4/11); Ord. 174 (9/5/03); Ord. 28 (7/11/67).

15-04.100 Repealer.

Any tribal laws, resolutions or ordinances that prohibited the sale, introduction or possession of intoxicating beverages are hereby repealed. Ordinances Nos. 27 and 139 are hereby repealed.

[History] Ord. 296 (8/4/11); Ord. 295 (8/4/11); Ord. 174 (9/5/03); Ord. 27 (6/7/66).

15-04.110 Severability.

[Reserved]

15-04.120 Effective Date.

This Chapter shall become effective 30 days after it has been published in the Federal Register.

[History] Ord. 296 (8/4/11); Ord. 295 (8/4/11); Ord. 174 (9/5/03); Ord. 139 (4/3/00); Ord. 28 (7/11/67); Ord. 27 (6/7/66).

Appendix I – Tribal Liquor License Fee Schedule

Beer and Wine Gift Delivery	\$75
Beer and Wine Specialty Shop	\$100
Grocery Store	\$150
International Exporter Endorsement	\$500
Motel	\$500
Nonprofit Arts Organization	\$250
Private Club – Beer and Wine	\$180
Private Club – Spirits, Beer and Wine	\$720
Non-Club Event Endorsement	\$900
Public House	\$1,000
Restaurant – Beer and/or Wine	
Beer	\$200
Wine	\$200
Off-Premises	\$120
Caterer’s Endorsement	\$350
Restaurant – Spirits, Beer, & Wine	
Less than 50% Dedicated Dining Area	\$2,000
50% or More Dedicated Dining Area	\$1,600
Service Bar Only	\$1,000
Caterer’s Endorsement	\$350
Duplicate License	
Airport Terminal	25% of annual license fee
Civic Center	\$10
Privately Owned Facility Open to the Public	\$20
Snack Bar	\$125
Sports/Entertainment Facility	\$2,500
Caterer’s Endorsement	\$350
Tavern – No Persons Under 21 Allowed	
Beer	\$200
Wine	\$200
Off-Premises	\$120