LIQUOR CONTROL REGULATIONS
of the
Three Affiliated Tribes
Mandan, Hidatsa and Arikara

Approved: May 11, 2017; amended July 6, 2017; and amended October 23, 2017 by the Tribal Business Council of the Three Affiliated Tribes
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Section 1

1.100. **Title.** Three Affiliated Tribes’ Liquor Control Regulations shall be known as the “Liquor Regulations.”


1.102. **Public Policy.** To regulate the manufacture distribution, sale, possession, and consumption of alcoholic beverages within the territory of the Fort Berthold Indian Reservation (Reservation) for the purpose of protecting the welfare, health, peace, morals, and safety of all people residing on the Reservation.

1.103. **Intent.** To prohibit all traffic, manufacture, and sale of alcoholic beverages on the Reservation except to the extent allowed and permitted under these regulations.

1.104. **Definitions.** As used in these Liquor Regulations, unless the context otherwise requires:

1. “Applicant” means a person, individual, or corporation and its manager, officers, and directors applying for a liquor license.

2. “Alcohol” means neutral spirits distilled at or above 190 proof, whether or not such product is subsequently reduced, for nonindustrial use.

3. “Alcoholic beverages” means any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.

4. “Beer” means any malt beverage containing more than one-half of one percent of alcohol by volume.


6. “Commission” means the Tax Commission, or its delegate of the Three Affiliated Tribes of the Fort Berthold Reservation established pursuant to Chapter 2 of the Code.
7. “Corporation” means a legal entity created under the laws of its place (tribal or state) of incorporation.

8. “Department” means the Three Affiliated Tribes Tax Department.

9. “Distilled spirits” means any alcoholic beverage that is not beer, wine, sparkling wine or alcohol.

10. “Enterprise” means an entity organized and conducting business on the Reservation.

11. “Four Bears Casino” means a gaming casino operated by the Tribe.

12. “Indian” means an individual who is an enrolled member tribe of an Indian tribe or of Indian descent.

13. “Licensed premises” means the premises on which beer, liquor, or alcoholic beverages are normally sold or dispensed and shall be delineated by diagram or blueprint which shall be included with the license application or the license renewal application.

14. “Licensee” means the individual or corporation that is granted a tribal license by the Commission.

15. “Liquor” means any alcoholic beverage except beer.

16. “Minor” means any individual under the age of twenty-one years of age.

17. “Non-Indian” means an individual who is not a member of a federally-recognized tribe.

18. “On-sale” means the sale of any alcoholic beverage for consumption only upon the premises where sold.

19. “Off-sale” means any sale of liquor in containers filled or packed by a manufacturer or wine bottler and sold in an unbroken package for consumption off the premises designated in the Retailer License and not for resale.

20. “Person” means a natural person, limited liability company, trust, firm, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, as well as, the individual officers, directors, or other persons in active control of the activities of each such entity. Also includes heirs, assigns, personal
representatives, conservators, and guardians.

21. “Public Place” means commercial or community facilities that allow unrestricted access to the public.

22. “Retailer License” means a revocable license granted by the Commission authorizing the Licensee and its Certified Servers to sell liquor at a specified location within the boundaries of the Reservation.

23. “Retailer Licensee” means the holder of a valid tribal Retailer License allowing the sale of liquor in a designated location, as authorized and granted by the Commission.

24. “Resale” means any sale of liquor for consumption by another person who is not the purchaser.

25. “Reservation” means the territory within the present confines of the Fort Berthold Indian Reservation, all lands outside and inside the exterior boundaries of the Reservation which are under the jurisdiction of the Tribe, and such other lands without such boundaries as may hereafter be added thereto under any law of the United States except as otherwise provided by law.

26. “Sale” or “Sell” means an exchange, transfer, sale, supply, barter, traffic, donation (with or without consideration), serving for consumption, dispensing, delivering, or distributing, by any means whatsoever, of Alcoholic beverage(s) within the exterior boundaries of the Reservation by any Person.

27. “Spirits” means any beverage that contains alcohol obtained by distillation, mixed with drinkable water and other substances in solution, including brandy, rum, whiskey, and gin.

28. “Sparkling wine” means wine made effervescent with carbon dioxide.

29. “State” means the State of North Dakota.

30. “Transport” means the introduction of alcoholic beverages onto the Reservation by any means of conveyance for the purpose of sale, or distribution, to any Licensed Retailer.

31. “Tribal Court” means the Fort Berthold District Court.
32. “Tribal License” means a license issued by the Commission.

33. “Tribal Business Council” or (TBC) means the Three Affiliated Tribes Tribal Business Council, established pursuant to Article 3, Section 1 of the Constitution of the Three Affiliated Tribes.

34. “Tribe” means the Three Affiliated Tribes of the Fort Berthold Indian Reservation.

35. “Wholesaler” means a person whose place of business is located off the Reservation who sells or possesses for the purpose of sale, any Liquor for resale by a Retailer Licensee.

36. “Wholesaler License” means a revocable license granted by the Commission authorizing the Licensee to sell liquor to a Retailer Licensee within the boundaries of the Reservation.

37. “Wholesaler Licensee” means the holder of a valid Wholesaler License.

38. “Wine” means the alcoholic beverage obtained by fermentation of agricultural products containing natural or added sugar or such beverage fortified with brandy and containing not more than twenty-four percent alcohol by volume.

Section 2

2.101. Powers of Enforcement. The Commission is empowered by the TBC to regulate the subject matter of these Liquor Regulations, pursuant to Resolution No. 16-152-LKH. The Commission shall have the following powers and duties:

1. To establish, and publish such rules and regulations as necessary to ensure the proper transportation, sale, delivery and consumption of alcoholic beverages within the Reservation;

2. To exercise such other delegated powers as necessary to fulfill the policy and intent of these Liquor Regulations;

3. To authorize the sale and transportation of liquor within the Reservation;

4. To determine penalties and seek damages for violations of these Liquor Regulations;

5. To collect fees levied or set in relation to these Liquor Regulations and keep accurate records, books, and accounts;

6. To employ managers, accountants, security personnel, inspectors, and other such persons as may be reasonably necessary to administer these Liquor Regulations; and
7. To delegate administration, assessment, and enforcement authority to the Department.

2.102. Limitations.

1. Notwithstanding any other provision of these Liquor Regulations, no penalty may be imposed pursuant or related to these Liquor Regulations in contravention of any limitation imposed by federal law.

2. Any regulatory action taken by the Commission pursuant to these Regulations will be civil in nature and will therefore apply to both Indians and non-Indians.

3. If any act prohibited under these Liquor Regulations would be deemed a criminal act under Tribal, State, or federal law, and if the person so acting is Indian, the Commission may refer the matter to the Three Affiliated Tribes’ Prosecutor’s office who may prosecute the individual in Tribal Court, if found guilty, such Indian shall be punished in accordance with the criminal laws of the Tribe and federal law.

4. If any act prohibited under these Liquor Regulations would be deemed a criminal act under State or federal law, and if the person so acting is non-Indian, the Commission may refer the non-Indian to State and/or federal authorities for criminal investigation and possible prosecution under applicable State and/or federal criminal law.

5. Nothing in these Liquor Regulations, including but not limited to any penalty imposed by the Commission, shall be construed to bar a similar trial or punishment to the full extent of any applicable tribal, state, and/or federal civil or criminal law.

2.103. Access to Premises.

1. A Licensee must consent to the inspection of their premises, including all buildings, safes, cabinets, lockers, and store rooms.

2. The premises shall be available for inspection during all business hours and all other times of apparent activity.

3. The inspections shall be conducted by a duly appointed designee of the Commission, tribal law enforcement, or federal law enforcement.

4. Any person who prevents or hinders, or attempts to prevent or hinder, such inspection shall be in violation of these Liquor Regulations.

1. A Licensee must consent to the inspection or production of any book, record, document, invoice, or voucher that is maintained, received, or issued by such Licensee.

2. The records shall be available for inspection during business hours.

3. The inspections shall be conducted by a duly appointed designee of the Commission, tribal law enforcement, or federal law enforcement.

4. Any person who prevents or hinders, or attempts to prevent or hinder, such inspection shall be in violation of these Liquor Regulations.

Section 3


1. Except as otherwise provided, Retailer Licensee, may sell liquor on the Reservation at such locations and hours permitted by their Retailer License and allowed by applicable law and these Liquor Regulations.

2. Dispensing Prohibited on Certain Times and Days. A Licensee may not dispense or permit the consumption of alcoholic beverages on a licensed premises during the following days and times:
   
   (a) Monday through Saturday—between the hours of 2:00 a.m. and 8:00 a.m.
   (b) Sunday—between the hours of 2:00 a.m. and 12:00 p.m.
   (c) Thanksgiving Day—after 1:00 a.m.
   (d) Christmas Eve Day—after 6:00 p.m.
   (e) Christmas Day—between the hours of 12:00 a.m. and 11:59 p.m.

3. Liquor Sales at the Four Bears Casino. Any sale of liquor at the Four Bears Casino must comply with all applicable provisions of the State Class III Gaming Compact between the Tribes and the State, as it now exists or hereafter may be amended.

4. Wholesale Liquor Transactions:
   
   (a) A Retailer Licensee may purchase Liquor for resale at a designated location only from a Wholesaler possessing a valid Wholesaler License issued by the Commission.
   (b) A Wholesaler Licensee may sell Liquor for resale at a designated location only to holders of valid Retailer Licenses issued by the Commission, provided that such sales are otherwise in conformity with these Liquor Regulations and applicable laws of the Tribe.

1. **No Resales.** No Retailer Licensee shall sell liquor on the Reservation for resale. All sales must be for the personal use and consumption of the purchaser.

2. **Not Licensed.** Any person who is not licensed pursuant to these Liquor Regulations who purchases Liquor within the Reservation and re-sells it, whether in the original container or not, shall be in violation of these Liquor Regulations and shall be subject to penalties pursuant to these Liquor Regulations.

3. **Bringing Liquor onto premises.** No Licensee shall allow any Person to bring any Liquor for personal consumption into the premises designated in the Retailer License.

4. **Other Prohibitions on Hours and Days of Sales.** The TBC may establish other days on which, or times at which, sales or consumption of Liquor are not permitted within the Reservation. The Commission shall provide notice of prohibited hours and days to all Wholesaler Licensees and Retailer Licensees doing business within the Reservation.

5. **Prohibitions as to Minors:**
   a. **No Sales to Minors.** No Licensee, Certified Server, or Person shall sell Liquor on the Reservation to a minor; however, the establishment of the following facts by a person making a sale of Liquor to a person not of legal age constitutes evidence of innocence and a defense to any prosecution:
      
      (i) That the purchaser falsely represented and supported with an apparently valid form of identification showing the Minor's age to be 21 years or older.

      (ii) That the appearance of the purchaser was such that an ordinary and prudent person would believe the purchaser to be of legal age to purchase alcoholic beverages.

      (iii) That the sale was made in good faith and in reliance upon the representation and appearance of the purchaser in the belief that the purchaser was of legal age to purchase alcoholic beverages.

   b. **Minors Not Allowed on Licensed Premises.** No Licensee shall permit a person under twenty-one years of age to remain on a
licensed premises while alcoholic beverages are being sold or displayed.

c. Minors Employed in Restaurants. A person under twenty-one years of age may remain in a restaurant where alcoholic beverages are sold if:

(i) the restaurant is separated from the room in which alcoholic beverages are opened or mixed;

(ii) gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area;

(iii) the minor is employed by the restaurant as a food waiter, food waitress, busboy, or busgirl under the direct supervision of a person twenty-one or more years of age, and not engaged in the sale, dispensing, delivery, or consumption of alcoholic beverages; or

(iv) the person is a law enforcement officer entering the premises in the performance of official duty.

d. Minors Employed as Musicians. A licensed premises where alcoholic beverages are sold may employ persons from eighteen to twenty-one years of age to work in the capacity of musicians under the direct supervision of a person over twenty-one years of age.

6. No Sales to Intoxicated Persons. No Retail Licensee or Person shall sell Liquor on the Reservation to a Person believed to be intoxicated.

7. All Sales Cash. A Retailer Licensee shall not make any sale of Liquor without receiving payment by cash, check, or credit card at or about the same time of the sale. This shall not preclude the Retailer Licensee from receiving a delivery of liquor from a Wholesale Licensee if arrangements have been made to pay for such delivery at a different time.

Further, this shall not preclude the Retailer Licensee from allowing a customer to purchase more than one item in sequence, and to pay for all such purchases at the conclusion, so long as payment is made in full before the customer has left the premises. These prohibitions shall not prevent the Retailer Licensee from distributing liquor to customers without charge, so long as such distribution is not otherwise in violation of any provision of these Liquor Regulations.
8. **Open Containers Prohibited.** No Person shall have an open container of any Liquor in any automobile, whether moving or standing still, or in a public place, other than on the premises designated in a Retailer License. This subsection does not apply to empty containers.

**Section 4**

4.101. **Licensing.** No person shall engage in the sale of Liquor at wholesale or retail, or transport liquor without first securing an appropriate license from the Commission.

4.102. **Wholesaler License.**

1. **Type:**
   a. Individual; or
   b. Corporate.

2. **Qualifications:**

   a. **Individual:**
      
      (i) Submitted a complete application with all required documentation;

      (ii) Legal resident of the United States;

      (iii) Resident of the Reservation;

      (iv) A person of good moral character;

      (v) The individual has not been convicted of an offense that has a direct bearing on their ability to serve the Reservation public as a licensed alcoholic beverage retailer; and

      (vi) The applicant may not have any financial interest in any supplier or any retail alcohol beverage business.

   b. **Corporate:**
      
      (i) Submitted a complete application with all required documentation;

      (ii) The manager of the licensed premises and its officers, directors, and stockholders must be legal residents of the United States;

      (iii) Registered with the Tribe and entitled to do business on the Reservation;

      (iv) Persons of good moral character;

      (v) The manager has not been convicted of an offense that has a direct bearing on manager’s ability to serve the
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Reservation public as a licensed alcoholic beverage retailer; and
(vi) The applicant may not have any financial interest in any supplier or any retail alcohol beverage business.

3. Fees:

(a) Annually established by TBC resolution; and
(b) not less than $200 and not more than $1,100.
(c) The Tribal license fee will be charged on a calendar-year basis. The license fee will be prorated from the first day of the month in which the license is issued up to the last day of the month in which the license expires, except no license fee will be less than $25.

4. Non-transferrable. The Transport License only is valid for the name stated on the License.

5. Display. The Transport License shall at all times be on public display as stated on the Transport License.

4.103. Retailer License – Restaurant, Hotel/Motel, Other.

1. Type:
   (a) Individual; or
   (b) Corporate.

2. Qualifications:

   (a) Individual:

   (i) Submitted a complete application with all required documentation;
   (ii) Legal resident of the United States;
   (iii) Resident of the Reservation;
   (iv) A person of good moral character;
   (v) The individual has not been convicted of an offense that has a direct bearing on the individual’s ability to serve the Reservation public as a licensed alcoholic beverage retailer; and
   (vi) The applicant may not have any financial interest in any supplier of an alcohol beverage business.

   (b) Corporate:

   i. Submitted a complete application with all required
documentation;

ii. The manager of the licensed premises and its officers, directors, and stockholders must be legal residents of the United States;

iii. Registered with the Tribe and entitled to do business on the Reservation;

iv. Persons of good moral character;

v. The manager has not been convicted of an offense that has a direct bearing on manager’s ability to serve the Reservation public as a licensed alcoholic beverage retailer; and

vi. The applicant may not have any financial interest in any supplier or any retail alcohol beverage business.

3. Fees:

(a) On-sale and off-sale liquor license:

i. Annually established by tribal council resolution; and

ii. not less than $200 and not more than $2,100.

(b) On-sale and off-sale beer license:

i. Annually established by tribal council resolution; and

ii. not less than $50 and not more than $600.

(c) The tribal license fee will be charged on a calendar-year basis. The license fee will be prorated from the first day of the month in which the license is issued up to the last day of the month in which the license expires, except no license fee will be less than $25.

4. Location. The Retailer License shall be for a specific location designated on the Retailer License. A 300 foot distance from public and parochial schools, colleges, universities, and seminaries applies to new retail liquor store applications. The building in which business is to be conducted must meet local and federal occupational health and safety administration laws and regulations.

5. Non-transferrable. The Retailer License shall not be transferred to another or used for any other location other than that stated on the License.

6. Display. The Retailer License shall at all times be on public display at the location designated on the Retailer License.
7. **Sale of beer in kegs — Registration and marking required.**

   (a) Any Retail Licensee who sells beer in a container with a liquid capacity greater than eight gallons (30.28 liters) must:
   
   i. place the Licensee’s tribal retail license number on the container;
   
   ii. mark the container with a "registration" number or letters, or both, unique to that container; and
   
   iii. the paint or ink used to mark the container(s) or other manner of marking the containers must be approved by the Commission.

   (b) The Licensee shall record the date of sale and the name, address, and driver's license number, tribal identification number, or other official state or military identification card of the person to whom the beer is sold, together with the signature, and registration number, or letters of the container, or both.

   (c) Such records must be retained for a period of no less than six months and must be kept on the licensed premises of the retail establishment where the sales are made.

   (d) Each Retail Licensee shall permit any law enforcement officer to inspect the records required to be kept pursuant to this section during times the retail establishment is normally open for business or at other reasonable times.

   (e) This section does not apply to the sale of beer in a container by a Retail Licensee if the contents of the container are consumed on the licensed premises where the sale occurred.

4.104. **Retailer License – Special Permit.** On-sale or off-sale alcoholic beverage licensee engaging in the sale of alcoholic beverages at special events on a licensed premises.

1. Established by Tribal Business Council resolution;

2. Not more than $25; and

3. Valid for no longer than three consecutive days.

4.105. **Transport License.** No person shall engage in the sale of alcoholic beverages at wholesale without first securing an appropriate license from the Commission.
1. **Type:**
   
   (a) Individual; or
   
   (b) Corporate.

2. **Qualifications:**
   
   (a) Individual:

   (i) Complete appropriate application with all required documentation;
   
   (ii) Legal resident of the United States;
   
   (iii) Resident of the Reservation;
   
   (iv) A person of good moral character; and
   
   (v) The individual has not been convicted of an offense that has a direct bearing on individual’s ability to serve the Reservation public as a licensed alcoholic beverage retailer.

   (c) Corporate:

   (i) Complete appropriate application with all required documentation;
   
   (ii) The manager of the licensed premises and its officers, directors, and stockholders must be legal residents of the United States;
   
   (iii) Registered with the Tribe and entitled to do business on the Reservation;
   
   (iv) Persons of good moral character; and
   
   (v) The manager has not been convicted of an offense that has a direct bearing on manager’s ability to serve the Reservation public as a licensed alcoholic beverage retailer.

3. **Fees:**
   
   (a) Annually established by Tribal Business Council resolution; and
   
   (b) not less than $200 and not more than $1,100.

   (c) The tribal license fee will be charged on a calendar-year basis. The license fee will be prorated from the first day of the month in which the license is issued up to the last day of the month in which the license expires, except no license fee will be less than $25.

4. **Non-transferrable.** The Transport License only is valid for the name stated on the License.

5. **Display.** The Transport License shall at all times be on public display as stated on the Transport License.
4.106. Application for a License.

1. The Commission will review the application with supporting documentation and make a determination whether to grant or deny the license. The applicant will receive a written determination.

2. The Commission will grant a license if it is determined that the License will serve the best interests of the Tribe.

3. The Commission shall deny the application if it is determined that the License will not serve the best interests of the Tribe, after considering such factors as:
   (a) The applicant’s compliance history with the Tribe, these Liquor Regulations, and federal law;
   (b) whether the applicant is currently in violation with tribal laws;
   (c) the number, density of locations selling liquor on the Reservation;
   (d) whether the applicant will operate a new or existing establishment; or
   (e) any other reason bearing on the health, safety, welfare and economic security of the Reservation.

4. The Commission will mail the applicant a final written decision within sixty (60) days after receipt of an application.

5. Failure of the Commission to issue a license or letter of denial within sixty (60) days shall be deemed a denial.

6. The Commission’s decision to deny an applicant may be appealed in accordance with these Liquor Regulations.

4.107. Duration of License. The period covered by the licenses under these Liquor Regulations shall be from 12 o’clock midnight on the 31st day of December to 12 o’clock midnight on the 31st day of the following December, unless proper application for a new license is in the possession of the Commission prior to midnight on the 31st day of December when the license is due. In such cases, the existing license shall be valid for an additional thirty (30) days.

4.108. License Renewal.

1. Licensees must:
   (a) be in compliance with all terms and conditions of their License(s);
   (b) be in compliance with these Liquor Regulations; and
(c) have no reported or pending violations at the time of renewal.

2. Wholesaler, Retailer, and Transport Licensees are required to renew their License on a form provided by the Commission no later than the end of business on December 31st of each year.

3. Licensee’s failure to renew their license suspends their liquor activity authorized under the license.

4. Renewals filed by end of business on January 15th shall be treated as a renewal. The appropriate license fee and a late fee of $100 will be assessed.

5. Licensee shall submit a new application after January 15th along with all required documentation and the appropriate license fee.

6. If January 15th falls on a holiday or weekend, the renewal is due by end of business on the next business day.

4.109. License Revoked.

1. An applicant who has their License revoked is ineligible to apply for a license within one year of the date of revocation.

2. An applicant who has had two or more license revocations is ineligible to apply for a License within five years of the date of the last revocation.

4.110. License Ineligible.

1. An applicant who has been convicted of a felony or a misdemeanor involving a crime of moral turpitude is ineligible for a License.

2. An applicant who has violated any of these Liquor Regulations is ineligible for a License.

4.111. Licensee’s Responsibilities. The Licensee shall be accountable for all violations of their license, including these Liquor Regulations, all taxes, penalties, and fees that may be charged against the license.

4.112. License is not a property right. Notwithstanding any other provision of these Liquor Regulations, a License is a permit for a fixed duration of time. A License shall not be deemed a property right or vested right of any kind, nor shall the granting of a license give rise to a presumption of legal entitlement.

4.113. Surety Bond Required.

1. Every application for a license, unless exempted from the TBC, must be accompanied by a bond, which shall become operative and effective upon the issuance of a license, unless the licensee already has a continuing...
bond in force.

2. The bond shall be in the amount of $10,000 and must be in a form approved by the TBC.

3. Surety bonds required by this part may be obtained only from corporate sureties which hold certificates of authority from and are subject to the limitations prescribed by the United States Department of the Treasury, as set forth in the current revision of Treasury Department Circular No. 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal bonds and as Acceptable Reinsuring Companies).

4. The bond shall be conditioned that the licensee will faithfully obey and abide by all the provisions of the law and these Liquor Regulations, all existing laws related to the conduct of business, and will promptly pay to the Tribe when due all license fees, costs, and penalties assessed against it in any judgment for violation of the law and these Liquor Regulations.

5. All bonds required by the law and these Liquor Regulations shall be with a corporate surety as surety, or shall be by cash deposit. If a surety bond is a cash deposit, it shall be kept in a separate escrow account with a bank.

4.114. Action of Bond for Injury. Any person injured by reason of the failure of any Licensee to faithfully obey and abide by all the provisions of the law and these Liquor Regulations shall have a direct right of action upon the bond before the Tribal Court, for the purpose of recovering the damage sustained by such person, which action may be prosecuted in the name of the injured.

4.115. Cancellation of Surety Bond. Any surety may cancel any bond required under the law and these Liquor Regulations as to future liability by giving thirty (30) days’ notice to the Commission. Unless the Licensee gives other sufficient surety by the end of the thirty (30) day period, the License shall be revoked automatically at the end of the thirty (30) days.

4.116. Deliveries. No Licensee under these Liquor Regulations shall make any delivery of alcoholic beverages outside the premises described in the License.

Section 5

5.101. Records and Reporting Requirements.

1. Licensed alcoholic beverage retailers shall:
   (a) be liable for the collection and remittance of the tax on the retail sale price of alcoholic beverages;
   (b) keep accurate records of all purchases, sales, quantities on hand and additional information required by the Commission of
alcoholic beverages; and
(c) file a monthly return to the Commission on forms provided by the Commission.
   (i) The monthly return, at a minimum, shall include: quantity; price; amount of tax due; and other information as requested.
   (ii) The monthly return is due to the Commission, no later than, 30 days after the preceding reporting period’s sales.

2. A Licensee who fails or refuses to furnish requested information from the Commission, the Commission may enter the Licensee’s premises and examine records. The cost shall be paid by the Licensee.

Section 6

6.101. Taxes. A seven percent (7%) tax on gross receipts of all sales at retail of alcoholic beverages within the exterior boundaries of the Reservation.

Section 7

[Reserved]

Section 8

8.101. Enforcement. The provisions of these Regulations shall be enforced in accordance with the applicable provisions of the Code and the Alcoholic Beverages Control Law (as amended).

8.102. Failure to Secure Alcoholic Beverage Control License.

1. All persons engaged in the sale of alcoholic beverages at retail must secure a license as required by 18 U.S.C. § 1161 and the Three Affiliated Tribes’; Amendments to Alcoholic Beverages Control Law effective March 30, 2017.

2. Failure to apply for or to possess the appropriate license is a direct violation of Federal and Tribal law and will result in the Commission taking appropriate legal action to suspend or cease retail sales.

3. The Commission is authorized to pursue appropriate legal action when the business operator willfully fails to comply with any provision of the Code, rules, or regulations under the auspices of the Commission.
4. The Commission may take any and all general and appropriate legal action to cease and/or close the business, assess taxes based upon the business activity, and collect taxes due through the sale of the business’ personal and real property.

5. The Commission shall request the Tribal Legal Department to issue a Cease and Desist Order:
   (a) The taxpayer will have 30 days to comply with the appropriate licensure requirements to avoid further action.
   (b) The Commission member, department employee, or agent of the Commission may either deliver in person accompanied by a law enforcement officer of the Tribe or the Bureau of Indian Affairs or by certified mail to the taxpayer.

6. The Commission shall take the following actions against taxpayers who fail to secure the appropriate license after the 30-day notice:
   (a) Report the taxpayer to federal authorities for prosecution; and
   (b) refer the matter to the Tribal Legal Department for relevant proceedings in tribal or federal court to close the business; and
   (c) Post a notice on the main entry door or a conspicuous location notifying the public that the business is suspended from selling alcoholic beverages for a specific period of time or the business is closed; and
   (d) Taxpayer shall not remove notice. Notice may only be removed by a Commission member, department employee, or agent of the Commission.

7. When necessary the Commission may initiate any enforcement proceeding as described in Chapter 4 of the Code to secure and collect taxes, interest, or penalties owed to the Tribe.

   The Commission may request the Tribal Legal Department to apply for a distress warrant authorizing the seizure of any personal and real property, except exempt property identified in Chapter 4, Section 406 of the Code, if:
   (a) the Commission determines that the taxpayer has delinquent taxes, interest, or penalties; and
   (b) the delay in receipt of the taxes, interest, or penalties may prejudice the ability to recover.
   (c) The Commission may request a distress warrant without notice to the delinquent taxpayer.
   (d) Inventory and Sale of Seized Property shall comply with Sections 403-405 of the Code.
8. The Commission shall request the Tribal Legal Department to notify the Secretary of Interior of any person selling alcoholic beverages on the reservation without a license. The Bureau of Indian Affairs law enforcement may make an arrest without a warrant for misdemeanor liquor trafficking offense. 25 U.S.C. § 2803(3)(d).

Section 9

9.101. Penalties. Violations shall be subject to civil penalties and/or suspension or revocation of Licensee’s tribal License. The Commission shall publish a schedule of established penalties approved by the Tribal Legal Department and the TBC. The TBC may impose civil penalties established by the Tribal Legal Department. A licensee may appeal such penalties to the Tribal Court. The Tribal Court has jurisdiction to either vacate, remand, or modify the TBC’s action. The penalty(ies) shall remain in effect, however, through the duration of an appeal. All taxes must be paid under protest prior to an appeal, unless a stay of taxes has been approved by the TBC.

9.102. Claim for Relief for Fault Resulting from Intoxication.

1. Every spouse, child, parent, guardian, employer, or other individual who is injured by any obviously intoxicated individual has a claim for relief for fault under Tribal Law against any person who knowingly disposes, sells, barters, or gives away alcoholic beverages to an individual under twenty-one years of age or to an incompetent or an obviously intoxicated individual, and if death ensues, the survivors of the decedent are entitled to damages. If a retail licensee is found liable under this section and exemplary damages are sought, the find of fact may consider as a mitigating factor that the licensee provided to an employee alcohol server training that addressed intoxication, drunk driving, and underage drinking.

2. If a retail licensee provided to an employee alcohol server training that addresses intoxication, drunk driving, and underage drinking, a person with a claim for relief under this section may not use the fact that the retail licensee provided this training to prove culpability.

3. A claim for relief under this section may not be had on behalf of the intoxicated individual nor on behalf of the intoxicated individual’s estate or personal representatives, nor may a claim for relief be had on behalf of an adult passenger in an automobile driven by an intoxicated individual or on behalf of the passenger’s estate or personal representatives.
Section 10


1. Anyone having information that a violation has occurred, may file an affidavit with the Tribal Legal Department.

2. The Legal Department shall set the matter for hearing before the Commission no later than thirty (30) days after receipt of the alleged violation.

3. The Legal Department shall mail a notice of the hearing, by registered mail, to the licensee, no less than five days before the scheduled hearing. The notice shall list the alleged violation(s) and shall set out the rights of the alleged violator.

4. The Licensee shall have the right to be represented by counsel, question witnesses, and examine the evidence; as well as, present evidence and witnesses in defense of the allegation.

5. The hearing will be recorded either electronically or by stenographic notes.

10.102. Suspension or Revocation of License. A hearing resulting in the suspension or revocation of a tribal License requires an order to be served upon the Licensee from the Tribal Legal Department. The order shall define the length of time for the suspension or revocation, as well as, any civil penalties.

10.103. Appeals. A Licensee may appeal the order to suspend or revoke his/her license to the Tribal Court. The Tribal Court has jurisdiction to either vacate, remand, or modify the Department’s action. The order shall remain in effect, however, through the duration of an appeal. The Tribal Court shall give substantial weight to the findings of fact made by the Commission.

10.104. Powers of the Tribal Chairman. The Tribal Chairman, or his designee, at a hearing under this law and these Liquor Regulations, shall have the power to administer oaths and subpoena and examine witnesses.

10.105. Effect of Findings of Fact on Tribal Court. The Tribal Court, in any matter heard on appeal under this law and these Liquor Regulations, shall give substantial weight to the findings of fact made by the Commission.
Section 11

11.101. Sovereign Immunity. Except as authorized under this law with respect to the Tribal Court’s jurisdiction to hear appeals, nothing in this law or these Liquor Regulations, shall be construed to waive the Tribe’s sovereign immunity from suit.

Section 12

12.101. Jurisdiction. Except as otherwise provided in these Liquor Regulations, the Tribal Court shall have exclusive jurisdiction of any and all actions pertaining to alleged violations of these Liquor Regulations, or seeking any relief against the Tribe, its officers, employees, or agents arising under these Liquor Regulations.

Section 13

13.101. Severability. If any section or part of the law or these Liquor Regulations, is held to be invalid or inapplicable for any cause, the remainder of the law or these Liquor Regulations shall not be affected and shall remain in full force and effect as though no part has been declared invalid.

Section 14

14.101. Commission to Adopt Policies and Procedures to Administer Taxes. The Commission may adopt policies and procedures governing retailers, licensees, wholesalers, direct shippers, and manufacturers necessary to carry out the provisions of the law and these Liquor Regulations to ensure efficient collection of all alcoholic beverage taxes.

Section 15

15.101. Effective Date. These Liquor Regulations are effective upon approval by the TBC.