

**Redding Rancheria
Liquor Licensing Ordinance**



REDDING RANCHERIA LIQUOR LICENSING ORDINANCE

The Redding Rancheria Indian Tribe, a federally recognized Indian Tribe (“Tribe”) hereby enacts the following ordinance to regulate and promulgate rules for issuing licenses for the sale, distribution and consumption of alcoholic beverages on the Redding Rancheria. This ordinance shall be known as the “Liquor Licensing Ordinance.” This ordinance and any regulations promulgated thereunder shall constitute the entire liquor licensing regulations for the tribe.

Findings and Policy

The Tribe finds that:

1. Under the Constitution of the Tribe, the Council is charged with the duty of protecting the health, education, and general welfare of the Tribe.
2. The introduction, possession and sale of alcoholic beverages on the Redding Rancheria are a matter of special concern to the Tribe.
3. Federal law leaves to tribes, the decision regarding when and to what extent alcoholic beverage transactions shall be permitted on Indian reservations.
4. Present day circumstances make a complete ban on alcoholic beverages within the Redding Rancheria ineffective and unrealistic. At the same time, a need still exists for strict tribal regulation and control over alcoholic beverage distribution.
5. The enactment of a tribal ordinance governing alcoholic beverage sales on the Tribe and providing for the purchase and sale of alcoholic beverages through tribal licensed outlets will increase the ability of the tribal government to control the distribution, sale and possession of liquor on the Tribe, and at the same time will provide an important and urgently needed source of revenue for the continued operation of the tribal government and delivery of tribal governmental services.

The council hereby declares that the policy of the tribe is to eliminate the evils of unlicensed and unlawful manufacture, distribution, and sale of alcoholic beverages on the tribe and to promote

reasonable use and consumption of alcoholic beverages by increasing tribal control over the possession and distribution of alcoholic beverages on the Tribe.

NOW, THEREFORE, Tribal Council of the Redding Rancheria hereby ordains as follows:

Chapters

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Chapter 1. Purpose.

The purpose of this Ordinance is to establish rules and regulations regarding the reasonable use and consumption of alcoholic beverages on the Redding Rancheria.

Chapter 2. General Provisions

§2000. Short title. This ordinance shall be known and cited as the “ Redding Rancheria Liquor Licensing Ordinance.

§2100. Purpose. The purpose of this Ordinance is to prohibit the importation, manufacture, distribution and sale of alcoholic beverages on the Tribe except pursuant to a license issued by Council under the provisions of this ordinance.

§2200. Sovereign immunity preserved. Nothing in this ordinance is intended or shall be construed as a waiver of the sovereign immunity of the Tribe. No officer or employee of Redding Rancheria is authorized nor shall he/she attempt to waive the immunity of the Tribe under the provisions of this ordinance unless such officer or employee has an expressed and explicitly written authorization from the Council.

§2300. Applicability within the reservation. This ordinance shall apply to all persons within the boundaries of the Tribe consistent with the applicable federal Indian liquor laws.

§2400. Interpretation and findings. The Redding Rancheria Tribal Council may interpret any ambiguities contained in this ordinance.

§2500. Conflicting provisions. Whenever any conflict occurs between the provisions of this ordinance or the provisions of any other ordinance of the Tribe, the stricter of such provisions shall apply.

§2600. Application of 18 U.S.C. 1161. The importation, manufacture, distribution and sale of alcoholic beverages on the Tribe shall be in conformity with this Ordinance and in conformity with the laws of the State of California as that phrase or term is used in 18.U.S.C. 1161.

Chapter 3. Definitions.

In construing the provisions of this ordinance, the following words or phrases shall have the meaning designated unless a different meaning is expressly provided or the context clearly indicates otherwise.

§3000. "*Alcohol*" means ethyl alcohol, hydrated oxide of ethyl or spirits of wine, from whatever source or by whatever process produced.

§3050. "*Alcoholic beverage*" includes all alcohol, spirits, liquor, wine, beer, and any liquid or solid containing alcohol, spirits wine or beer, and which contains on-half of one percent or more of alcohol by volume and which is fit for beverage purposes whether alone or when diluted, mixed, or combined with other substances. It shall be interchangeable in this ordinance with the term "liquor".

§3100. "*Beer*" shall mean any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof in water, and includes ale, porter, brown, stout, lager beer, small beer, and strong beer, and also includes sake, otherwise known as Japanese rice wine.

§3150. "*Wine*" shall mean the product obtained from the normal alcoholic fermentation of the juice of the grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage to which is added grape brandy, fruit brandy, or spirits of wine, which is distilled from the particular agricultural product or products of which the wine is made, and other rectified wine products.

§3200. "*Distilled spirits*" shall mean any alcoholic beverage obtained by the distillation of fermented agricultural products, and includes alcohol for beverage use, spirits of wine, whiskey, rum, brandy, and gin, including all dilutions and mixtures thereof.

§3250. "*Importer*" means any person who introduces alcohol or alcoholic beverages into the Redding Rancheria from outside the exterior boundaries of the Reservation for the purpose of sale or distribution within the Reservation for the purpose of sale or distribution within the Reservation, provided however, the term importer as used herein shall not include a wholesaler licensed by any state or tribal government selling alcoholic beverages to seller licensed by a state or tribal government to sell at retail.

§3300. "*liquor license*" shall mean a license issued by the Redding Rancheria Tribal Council under the provisions of this ordinance authorizing the sale, manufacture, or importation of alcoholic beverages on or within the Reservation consistent with federal law.

§3350. "*Manufacturer*" shall mean any person engaged in the manufacture of alcohol or alcoholic beverages.

§3400. "*Person*" shall mean any individual, whether Indian or non-Indian, receiver, assignees, trustee in bankruptcy, trust, estate, firm, partnership, joint corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit or otherwise, and any other Indian tribe, band or group, whether recognized by the United States Government or otherwise. The term shall also include the businesses of the Tribe. It shall be interchangeable in this ordinance with the term "seller" or "licensee".

§3450. "*Reservation*" shall mean all lands within the boundaries of the Redding Rancheria and such other lands as may hereafter be acquired by the Tribe, whether within or without said boundaries, under any grant, transfer, purchase, gift, adjudication, executive order, Act of Congress, or other means of acquisition.

§3500. "*Sale*" shall mean the exchange of property and/or any transfer of the ownership of, title to, or possession of property for a valuable consideration, exchange or barter, in any manner or by any means whatsoever. It includes conditional sales contracts, leases with options to purchase, and any other contract under which possession of property is given to the purchaser, buyer, or consumer but title is retained by the vendor, retailer, manufacturer, or wholesaler, as security for the payment of the purchase price. Specifically, it shall include any transaction whereby, for any consideration, title to alcoholic beverages is transferred from one person to another, and includes the delivery of alcoholic beverages, or soliciting or receiving such beverages, distilled spirits, beer, or wine.

§3550. "*Seller*" shall mean any person whom, while within the boundaries of the Reservation, sells, solicits or receives an order for any alcohol, alcoholic beverages, distilled spirits, beer, or wine.

§3600. "*Tribal Council*" or "*Council*" shall mean the Redding Rancheria Tribal Council.

Chapter 4. Prohibition of the Unlicensed Sale of Liquor.

§4000. Prohibition of the Unlicensed Sale of Liquor. No person shall import for sale, manufacture, distribute or sell any alcoholic beverages within the reservation without first applying for and obtaining a written license from the Council issues in accordance with the provisions of this ordinance.

§4100. Authorization to Sell Liquor. Any person applying for and obtaining a liquor license under the provisions of this ordinance shall have the right to engage only in those liquor transactions expressly authorized by such license and only at those specific places or areas designated in said license.

§4200. Types of licenses The council shall have the authority to issue the following types of liquor licenses within the reservation:

- I. "*Retail on-sale general license*" means a license authorizing the applicant to sell alcoholic beverages at retail to be consumed by the buyer only on the premises or at the location designated in the license.
- II. "*Retail on-sale beer and wine license*" means a license authorizing the applicant to sell beer and wine at retail to be consumed by the buyer only on the premises or at the location designated in the license.
- III. "*Retail off-sale general license*" means a license authorizing the applicant to sell alcoholic beverages at retail to be consumed by the buyer off of the premises or at a location other than the one designated in the license.
- IV. "*Retail off-sale beer and wine license*" means a license authorizing the applicant to sell beer and wine at retail to be consumed by the buyer off of the premises or at a location other than the one designated in the license.
- V. "*Manufacturers license*" means a license authorizing the applicant to manufacture alcoholic beverages for the purpose of sale on the reservation.

Chapter 5. Reserved

Chapter 6. Application for Licenses.

§6000. Application form and content. An application for a license shall be made to the Council and shall contain the following information:

- i The name and address of the applicant. In the case of a corporation, the names and addresses of all of the principal officers, directors and stockholders of the corporation. In the case of a partnership, the name and address of each partner.
- ii. The specific area, location and/or premises for which the license is applied for.
- iii. The type of liquor transaction applied for (i.e. retail on-sale general license, etc.).
- iv Whether the applicant has a state liquor license.
- v. A statement by the applicant to the effect that the applicant has not been convicted of a felony and has not violated and will not violate or cause or permit to be violated any of the provisions of this ordinance or any of the provisions of the California Alcoholic Beverage Control Act.
- vi. The signature and fingerprint of the applicant. In the case of a partnership, the signature and fingerprint of each partner. In the case of a corporation, the signature and fingerprint of each of the officers of the corporation under the seal of the corporation.
- vii. The application shall be verified under oath, notarized and accompanied by the license fee required by this ordinance.

§6100. Fee accompanying application. The Council shall by resolution establish a fee schedule for the issuance, renewal and transfer of the following types of licenses:

- I. Retail on-sale general license;
- II Retail on-sale beer and wine license;
- III. Retail off-sale general license;
- IV. Retail off-sale beer and wine liquor; and
- V. Manufacturers license.

§6200. Investigation; denial of application. Upon receipt of an application for the issuance, transfer or renewal of a license and the application fee required herein, the Council shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied for qualify for a license and whether the provisions of this ordinance have been complied with, and shall investigate all matters connected therewith which may affect the public welfare and morals. The Council shall deny an application for issuance, renewal or transfer of a license if either the applicant or the premises for which a license is applied for does not qualify for a license under this ordinance or if the applicant has misrepresented any facts in the application or given any false information to the Council in order to obtain a license.

The Council further may deny any application for issuance, renewal or transfer of a license if the Council cannot make the findings required by Section §8100 of this Ordinance or the Council finds that the issuance of such a license would tend to create a law enforcement problem, or if issuance of said license would be a detriment to the health, safety and welfare of the tribe or its members.

Chapter 7. Reserved

Chapter 8. Issuance, Renewal and Transfer of Licenses.

§8000. Public hearing. Upon receipt of an application for issuance, renewal or transfer of a license, and the payment of all fees required under this ordinance, the Secretary of the Council shall set the matter for a public hearing. Notice of the time and place of the hearing shall be given to the applicant and the public at least ten (10) calendar days before the hearing. Notice shall be given to the applicant by prepaid U.S. mail at the address listed in the application. Notice shall be given to the public by publication in a newspaper of general circulation sold on the Reservation. The notice published in the newspaper shall include the name of the applicant and the type of license applied for and a general description of the area where liquor will be sold. At the hearing, the Council shall hear from any person who wishes to speak for or against the application. The Council shall have the authority to place time limits on each speaker and limit or prohibit repetitive testimony.

§8100. Council action on the application. Within thirty (30) days of the conclusion of the public hearing, the council shall act on the matter. The Council shall have the authority to deny, approve or approve with conditions the application. Before approving the application, the Council shall find: (1) that the site for the proposed premises has adequate parking, lighting, security and ingress and egress so as not to adversely affect adjoining properties or businesses, and (2) that the sale of alcoholic beverages at the proposed premises is consistent with the Tribe's Zoning Ordinance.

Upon approval of an application, the Council shall issue a license to the applicant in a form to be approved from time to time by the Council by resolution. All businesses shall post their tribal liquor licenses issued under this ordinance in a conspicuous place upon the premises where alcoholic beverages are sold, manufactured or offered for sale.

§8200. Multiple locations. Each license shall be issued to a specific person. Separate licenses shall be issued for each of the premises of any business establishment having more than one location. In the case of the sale of alcoholic beverages on boats, a separate license shall be issued for each boat regardless of the fact that the boats are moored at one location or owned by one person.

§8300. Term of license. Temporary licenses. All licenses issued by the Council shall be issued on a calendar year basis and shall be renewed annually; provided, however, that the Council may issue special licenses for the sale of alcoholic beverage on a temporary basis for premises temporarily occupied by the licensee for a picnic, social gathering or similar occasion at a fee to be established by the Council by resolution.

§8400. Transfer of licenses. Each license issued or renewed under this ordinance is separate and distinct and is transferable from the licensee to another person and/or from one premises to another premises only with the approval of the Council. The Council shall have the authority to approve, deny or approve with conditions any application for the transfer of any license. In the case of a transfer to a new person, the application for transfer shall contain all of the information required of an original applicant under section §6000 of this ordinance. In the case of a transfer to a new location, the application shall contain an exact description of the location where the alcoholic beverages are proposed to be sold.

Chapter 9. Reserved

Section 10. Revocation of Licenses.

§10000. Revocation of license. The Council shall revoke a license upon any of the following grounds:

- i. The misrepresentation of a material fact by an applicant in obtaining a license or a renewal thereof.
- ii. The violation of any condition imposed by the Council on the issuance, transfer or renewal of license.

- iii. A plea, verdict, or judgment of guilty, or the plea of nolo contendere to any public offense involving moral turpitude under any federal or state law prohibiting or regulating the sale, use, possession, or giving away of alcoholic beverages or intoxicating liquors.
- iv. The violation of any tribal ordinance.
- v. The failure to take reasonable steps to correct objectionable conditions on the licensed premises or any immediate adjacent area leased, assigned or rented by the licensee constituting a nuisance within a reasonable time after receipt of a notice to make such corrections has been received from the Council or its authorized representative.

§10100. Accusations. The Council on its own motion through the adoption of an appropriate resolution meeting the requirements of this section or any person may initiate revocation proceedings by filing an accusation with the Secretary of the Council.

- i. The accusation shall be in writing and signed by the maker, and shall state facts showing that there are specific grounds under this ordinance which would authorize the Council to revoke the license or licenses of the licensee against whom the accusation is made.
- ii. Upon receipt of an accusation, the secretary of the council shall cause the matter to be set for a hearing before the council.
- iii. Thirty (30) days prior to the date set for the hearing, the Secretary shall mail a copy of the accusation along with a notice of the day and time of the hearing before the Council. The notice shall command the licensee to appear and show cause why the licensee's license should not be revoked. The notice shall state that the licensee has the right to file a written response to the accusation, verified under oath and signed by the licensee ten (10) days prior to the hearing date.

§10200. Hearing. Any hearing held on any accusation shall be held before a majority of the Council under such rules of procedure as it may adopt. Both the licensee and the person filing the accusation, including the Tribe, shall have the right to present witnesses to testify and to present written documents in support of their positions to the Council. The Council shall render its decision within sixty (60) days after the date of the hearing. The decision of the Council shall be final and non-appealable.

Chapter 11. Reserved

Chapter 12. Enforcement

§12000. General Penalties. Any person adjudged to be in violation of this ordinance shall be subject to a civil penalty of not more than Five Hundred Dollars (\$500) for each such violation. The Council may adopt by resolution a separate schedule of fines for each type of violation, taking into account its seriousness and the threat it may pose to the general health and welfare of tribal members. Such schedule may also provide, in the case of repeated violations, for imposition of monetary penalties greater than the Five Hundred Dollars (\$500) limitation set forth above.

The penalties provided for herein shall be in addition to any criminal penalties which may hereafter be imposed in conformity with federal law by separate chapter or provision of this Ordinance or by a separate ordinance of the Redding Rancheria Code.

§12100. Initiation of action. Any violation of this ordinance shall constitute a public nuisance. The Council may initiate and maintain an action in tribal court or any court of competent jurisdiction to abate and permanently enjoin any nuisance declared under this ordinance. Any action taken under this section shall be in addition to any other penalties provided for this ordinance.

Chapter 13. Reserved

Chapter 14. Severability. If any part or provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to persons or circumstances,, shall not be affected thereby and shall continue in full force and affect. To this end, the provisions of this ordinance are severable.

Chapter 15. Rice v. Rehner. All provisions of this Ordinance shall comply with the ruling of the United States Supreme Court Case, Rice v. Rehner, (463 U.S. 713 1983). Ch.amended res. #01-11-00.

Chapter 16. Effective Date. This ordinance shall be effective on such date as the Secretary of the Interior certifies this ordinance and publishes the same in the Federal Register.

Ordinance History

Leon Benner (First Approved on August 12, 1999, original of file)
Redding Rancheria Chairperson

Hope Wilkes (First Approved on August 12, 1999, original of file)
Tribal Secretary

*Leon Benner (First Amendment on January 11,2000 , original of file)
Redding Rancheria Chairperson

*Hope Wilkes (First Amendment on January 11, 2000, original of file)
Tribal Secretary

CERTIFICATION

** We, the undersigned duly elected officials of the Redding Rancheria, do hereby certify that the foregoing Ordinance was adopted at a duly called meeting of the General Council of the Redding with a quorum present on the 13 day of June, 2000, by a vote of 48 for, 0 against, 0 abstaining.

Leon Benner
Redding Rancheria Chairperson

Dated: 7-12-00

Hope Wilkes
Tribal Secretary

Dated: 7-12-00

Present Council

1. Chairman - Leon Benner
2. Vice Chairperson - Tracy Edwards
3. Secretary - Hope Wilkes
4. Treasurer - Don Benner
5. Councilperson - Debra Sarot
6. Councilperson - Patty Spaulding
7. Councilperson - Bob Foreman
8. Alternate- Carla Maslin
9. Alternate - Bobby Foreman Jr.
10. Alternate - Gary Hayward

REDDING RANCHERIA LIQUOR LICENSING ORDINANCE
ADOPTED ON AUGUST 12, 1999
***FIRST AMENDMENT ON JANUARY 11, 2000**
****SECOND AMENDMENT JUNE 13, 2000**