

**Ordinance Number 14.001.** Amended by  
Resolution No. 97-064 dated 2/16/97;  
Resolution No. 97-086 dated 3/15/97;  
Resolution No. 97-211 dated 6/21/97;  
Resolution No. 2005-361, dated 9/16/05.

Original Date: April 20, 1996  
Subject: Liquor Control

## **LIQUOR CONTROL ORDINANCE**

### **Siletz Tribal Code § 14.001**

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#### **PART I INTRODUCTION**

##### **§ 14.001      TITLE**

This Ordinance shall be known as the "Liquor Ordinance of the Confederated Tribes of Siletz Indians" (hereinafter "Siletz Tribe"). This Ordinance may be referred to as the "Siletz Liquor Control Ordinance."

##### **§ 14.002      PURPOSE AND AUTHORITY**

(a) The purpose of this Ordinance is to regulate and control the possession and sale of liquor within Siletz Indian country, as specifically authorized and approved by General Council referendum under Article VII, Section 2 of the Siletz Tribal Constitution. The authority for enactment of this Ordinance is as follows:

- (1) The Act of August 15, 1953, (Public Law 83-277, 67 Stat. 586, codified at 18 USC §1161), which provides a federal statutory basis for the Siletz Tribe to regulate the activities of the manufacture, distribution, sale and consumption of liquor on Indian lands under the jurisdiction of the Confederated Tribes of Siletz Indians of Oregon, so long as such ordinance is in conformance with the laws of the State of Oregon; and

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- (2) Article IV, Section 1 of the Constitution of the Confederated Tribes of Siletz Indians of Oregon, which vests the Tribal Council with legislative and administrative authority, and otherwise empowers the Tribal Council to act for the Confederated Tribes of Siletz Indians of Oregon.

**PART II**  
**DEFINITIONS**

**§ 14.003**      **DEFINITIONS**

(a) As used in this Ordinance, the following words shall have the following meanings unless the context clearly requires otherwise:

- (1) **"Alcohol"** means that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions of this substance.
- (2) **"Alcoholic Beverage"** is synonymous with the term "Liquor" as defined in paragraph (6) of this section.
- (3) **"Bar"** means any establishment with special space and accommodations for sale by the glass and for consumption on the premises of liquor, as herein defined.
- (4) **"Beer"** means any beverage obtained by the alcoholic fermentation of any infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain of cereal in pure water containing not more than four percent of alcohol by volume.
- (5) **"Committee"** for the purposes of this Ordinance shall mean the Tribal Council of the Siletz Tribe.
- (6) **"Liquor"** including the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented spirituous, vinous, or malt liquor or combination thereof, and mixed liquor, or otherwise intoxicating and every

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liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption and any liquid, semisolid, solid, or other substances, which contain more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.

- (7) **"Liquor Store"** means any store at which liquor is sold, and for the purposes of this Ordinance, includes a store at which only a portion of which is devoted to the sale of liquor or beer.
- (8) **"Malt Liquor"** means beer, ale, stout, and porter.
- (9) **"Package"** means any container or receptacle used for holding liquor.
- (10) **"Public Place"** includes state or county or tribal or federal highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; soft drink establishment, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theater, gaming facilities, entertainment centers, store garages, and filling stations which are open to and/or are generally used by the public and to which the public is permitted to have unrestricted access; public conveyances of all kinds of character; and all other places of like or similar nature to which the general public has right of access, and which are generally used by the public. For the purposes of this Ordinance, "Public Place" shall also include any establishment other than a single family home which is designed for or may be used by more than just the owner of the establishment.
- (11) **"Reservation"** means the Siletz Tribe Reservation, which is held in trust by the United States Government for the benefit of the Siletz Tribe; any land located within the exterior boundaries of said reservation; and any lands held in trust by the United States for the benefit of the Siletz Tribe or held in trust for the benefit of an individual member of the Siletz Tribe.
- (12) **"Sale"** and **"Sell"** include exchange, barter, and traffic; and also include the selling or supplying or distributing by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatsoever commonly

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used to describe malt or brewed liquor or wine by any person to any person.

- (13) **"Spirits"** means any beverage, which contains alcohol obtained by distillation, including wines exceeding seventeen percent of alcohol by weight.
- (14) **"Tribe"** means the Confederated Tribes of Siletz Indians of Oregon.
- (15) **"Wine"** means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, etc.) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than seventeen percent of alcohol by weight, including sweet wines fortified with wine spirits such as port, sherry, muscatel, and angelica, not exceeding seventeen percent of alcohol by weight.

(b) To the extent that definitions are not inconsistent with tribal or federal law, the terms used in this ordinance shall have the same meaning as defined in Title 37, Oregon Revised Statutes, Chapter 471, and as defined in Oregon Administrative Rules, Chapter 845.

(c) References in this §14.003 to federal and Oregon state law shall be those laws and regulations in effect as of May 18, 1996. Subsequent changes in those laws and regulations shall be considered incorporated into this ordinance and effective unless the Siletz Tribal Council or the General Council amends this ordinance.

**§ 14.004      CONFORMITY TO STATE LAW**

(a) **Statement of Objection.** The Confederated Tribes of Siletz Indians of Oregon does not agree with the alleged authority of the United States or the State of Oregon to interfere with the Siletz Tribe's sovereign authority to regulate the control of liquor within Siletz Indian country. Nothing in this Ordinance shall be interpreted as a waiver of the Siletz Tribe's right and power to challenge such authority in judicial forums of competent jurisdiction, or by use of the political process. This Ordinance shall conform with the laws of the State of Oregon as required by 11 U.S.C. §1161, and *Rice v. Rehner*, 463 U.S. 713 (1983).

(b) **Conformity to State Law.** The Confederated Tribes of Siletz Indians of Oregon

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agrees to perform in the sale and possession of liquor in the same manner as any other Oregon business entity for the purpose of liquor licensing and regulations, including but not limited to licensing, compliance with the regulations of the Oregon Liquor Control Commission (OLCC), maintenance of liquor liability insurance, and other applicable subjects as the State may address by statute or regulation from time to time. The Tribal Council may enter into an inter-governmental agreement with the State of Oregon to address the details of compliance with state law and regulation under this Ordinance, *provided*, that any such intergovernmental agreement shall not conflict with or supersede the terms of this Ordinance, and shall not have force of law, unless and until this Ordinance has been validly amended pursuant to STC §14.039 and such amendment has been approved by the appropriate officials of the United States Department of the Interior, as required by federal law.

(c) **Jurisdiction and Dispute Resolution.** Jurisdiction for enforcement of the provisions of this Ordinance by the State of Oregon shall be set forth in an appropriate inter-governmental agreement between the Siletz Tribe and the State of Oregon. No consent to jurisdiction in the courts of the State of Oregon and no consent to limited waiver of the Siletz Tribe's sovereign immunity shall be implied or inferred except through negotiation and express consent to jurisdiction and limited waiver of sovereign immunity in a valid inter-governmental agreement. Such agreement shall not supersede or conflict with any of the terms of this Ordinance, and shall not have force of law, unless and until this Ordinance has been validly amended pursuant to STC §14.039 and such amendment has been approved by the appropriate officials of the United States Department of the Interior, as required by federal law.

(d) **Future Changes in the Law.** Amendment or modification of regulation by the Siletz Tribe of the sale and possession of liquor shall not be effective until this Ordinance has been validly amended pursuant to STC §14.039, and such amendment has been approved by appropriate officials of the United States Department of the Interior, as required by federal law.

**PART III**  
**POWERS OF ENFORCEMENT**

**§ 14.005      POWERS**

(a) The Committee, in furtherance of the Ordinance, shall have the following powers and duties, or may delegate such duties by resolution:

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- (1) To publish and enforce the rules and regulations governing the sale, manufacture, and distribution of alcoholic beverages on the Reservation;
- (2) To employ managers, accountants, security personnel, inspectors, and such other persons as shall be reasonably necessary to allow the Committee to perform its functions. Such employees shall be tribal employees;
- (3) To issue licensed permitting the sale or manufacture or distribution of liquor on the Reservation;
- (4) To hold hearing on violations of this Ordinance or for the issuance or revocation of licenses hereunder;
- (5) To bring suit in the appropriate court to enforce this ordinance as necessary;
- (6) To determine and seek damages for violation of this Ordinance;
- (7) To make such reports as may be required;
- (8) To collect taxes and fees levied or set by the Committee, and to keep accurate records, books and accounts; and
- (9) To exercise such other powers as are necessary and appropriate to fulfill the purposes of this Ordinance.

(b) The Committee shall have the authority to authorize the sale of liquor only on those areas of the Siletz Tribe's reservation that have been specifically approved by the Siletz General Council, by referendum, and under such conditions as may be included in said referendum.

**§ 14.006      LIMITATION ON POWERS**

In the exercise of its powers and duties under this Ordinance, the Committee and its individual members shall not accept any gratuity, compensation or other thing of value from any liquor wholesaler, retailer, or distributor or from any licensee.

**§ 14.007      INSPECTION RIGHTS**

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The premises on which liquor is sold or distributed shall be open for inspection by the Committee at all reasonable time for the purposes of ascertaining whether the rules and regulations of this Ordinance are being complied with.

**PART IV**  
**SALES OF LIQUOR**

**§ 14.008      LICENSES REQUIRED**

No sales of alcoholic beverages shall be made, except at a tribally-licensed or tribally-owned business operated on Reservation land within the exterior boundaries of the Siletz Tribe.

**§ 14.009      SALES FOR CASH**

All liquor sales within the Reservation boundaries shall be on a cash only basis and not credit shall be extended to any person, organization, or entity, except that this provision does not prevent the use of major credit cards.

**§ 14.010      SALE FOR PERSONAL CONSUMPTION**

All sales shall be for the personal use and consumption of the purchaser. Resale of any alcoholic beverage purchased within the exterior boundaries of the Reservation is prohibited. Any person who is not licensed pursuant to this Ordinance who purchases an alcoholic beverage within the boundaries of the Reservation and sells it, whether in the original container or not, shall be guilty of a violation of this Ordinance and shall be subjected to paying damages to the Siletz Tribe as set forth herein.

**PART V**  
**LICENSING**

**§ 14.011      REQUIREMENTS FOR APPLICATION FOR TRIBAL LIQUOR LICENSE**

(a) No individual tribal license shall issue under this Ordinance except upon a sworn application filed with the Committee containing a full and complete showing of the following:

- (1) Satisfactory proof that the applicant is or will be duly licensed by the State of

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Oregon.

- (2) Satisfactory proof that the applicant is of good character and reputation among the people of the Reservation and that the applicant is financially responsible.
- (3) The description of the premises in which the intoxicating beverages are to be sold, proof that the applicant is the owner of such premises, or lessee of such premises, for at least the term of the license.
- (4) Agreement by the applicant to accept and abide by all conditions of the tribal license.
- (5) Payment of a license fee as prescribed by the Committee.
- (6) Satisfactory proof that neither the applicant nor the applicant's spouse has ever been convicted of a felony.
- (7) Satisfactory proof that notice of the application has been posted in a prominent, noticeable place on the premises where intoxicating beverages are to be sold for at least 30 days prior to consideration by the Committee and has been published at least twice in such local newspaper serving the community that may be affected by the license. The notice shall state the date, time, and place when the application shall be considered by the Committee pursuant to Section 14.012 of this Ordinance.

**§ 14.012      HEARING ON APPLICATION FOR TRIBAL LIQUOR LICENSE**

(a) All applications for a tribal liquor license shall be considered by the Committee in open session at which the applicant, his/her attorney, and any person protesting the application shall have the right to be present, and to offer sworn oral or documentary evidence relevant to the application. After the hearing, the Committee, by secret ballot, shall determine whether to grant or deny the application based on:

- (1) Whether the requirements of Section 14.011 have been met; and
- (2) Whether the Committee, in its discretion, determines that granting the license is in the best interest of the Siletz Tribe.

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In the event that the applicant is a member of the Tribal Council, or a member of the immediate family of a Tribal Council member, such member shall not vote on the application or participate in the hearings as a Committee member.

**§ 14.013      TEMPORARY PERMITS**

The Committee or its designee may grant a temporary permit for the sale of intoxicating beverages for a period not to exceed three (3) days to any person applying for the same in connection with a tribal or community activity, provided that the conditions prescribed in Section 14.014 of this Ordinance shall be observed by the permittee. Each permit issued shall specify the types of intoxicating beverages to be sold. Further, a fee, as set by the Committee, will be assessed on temporary permits.

**§ 14.014      CONDITIONS OF THE TRIBAL LICENSE**

(a) Any tribal license issued under this Ordinance shall be subject to such reasonable conditions as the Committee shall fix, including, but not limited to the following:

- (1) The license shall be for a term not to exceed 2 years;
- (2) The licensee shall at all times maintain an orderly, clean, and neat establishment, both inside and outside the licensed premises;
- (3) The licensed premises shall be subject to patrol by the tribal police department, and such other law enforcement officials as may be authorized under applicable law;
- (4) The licenses premises shall be open to inspection by duly authorized tribal officials at all times during the regular business hours;
- (5) Subject to the provisions of subsection (7) to this section, no intoxicating beverages shall be sold, served, disposed of, delivered or given to any person, or consumed on the licensed premises except in conformity with the hours and days prescribed by the laws of the State of Oregon, and in accordance with the hours fixed by the Committee, provided that the licensed premises

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shall not operate or open earlier or operate or close later than is permitted by the laws of the State of Oregon.

- (6) No liquor shall be sold within 200 feet of a polling place on tribal election days, or when a referendum is held of the people of the Siletz Tribe, and including special days of observance as designated by the Committee.
- (7) All acts and transactions under authority of the tribal liquor license shall be in conformity with the laws of the State of Oregon, as required by federal law, and shall be in accordance with this ordinance and any tribal license issued pursuant to this Ordinance.
- (8) No person under the age permitted under the laws of the State of Oregon shall be sold, served, delivered, given, or allowed to consume alcoholic beverages in the licensed establishment and/or area.
- (9) There shall be no discrimination in the operations under the tribal license by reason of race, color, or creed.

**§ 14.015      LICENSE NOT A PROPERTY RIGHT**

Notwithstanding any other provision of this ordinance, a tribal liquor license is a mere permit for a fixed duration of time. A tribal liquor license shall not be deemed a property right or vested right of any kind, nor shall the granting of a tribal liquor license give rise to a presumption of legal entitlement to the granting of such license for a subsequent time period.

**§ 14.016      ASSIGNMENT OR TRANSFER**

No tribal license issued under this Ordinance shall be assigned or transferred without the written approval of the Committee expressed by formal resolution.

**PART VI**  
**RULES, REGULATIONS AND ENFORCEMENT**

**§ 14.017      SALES OR POSSESSION WITH INTENT TO SELL WITHOUT A PERMIT**

Any person who shall sell or offer for sale or distribute or transport in any manner, any

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liquor in violation of this ordinance, or who shall operate or shall have liquor in his/her possession with intent to sell or distribute without a permit, shall be guilty of a violation of this Ordinance.

**§ 14.018      PURCHASES FROM OTHER THAN LICENSED FACILITIES**

Any person within the boundaries of the Reservation who buys liquor from any person other than at a properly licensed facility shall be guilty of a violation of this Ordinance.

**§ 14.019      SALES TO PERSONS UNDER THE INFLUENCE OF LIQUOR**

Any person who sells liquor to a person apparently under the influence of liquor shall be guilty of a violation of this Ordinance.

**§ 14.020      CONSUMING LIQUOR IN PUBLIC CONVEYANCE**

Any person engaged wholly or in part in the business of carrying passengers for hire, and every agent, servant or employee of such person who shall knowingly permit any person to drink any liquor in any public conveyance shall be guilty of a violation of this Ordinance. Any person who shall drink any liquor in a public conveyance shall be guilty of a violation of this Ordinance.

**§ 14.021      CONSUMPTION OR POSSESSION OF LIQUOR BY PERSONS UNDER 21 YEARS OF AGE**

No person under the age of 21 years shall consume, acquire or have in his/her possession any alcoholic beverage. No person shall permit any other person under the age of 21 to consume liquor on his/her premises or any premises under his/her control except in those situations set out in this section. Any person violating this section shall be guilty of a separate violation of this Ordinance for each and every drink so consumed.

**§ 14.022      SALES OF LIQUOR TO PERSONS UNDER 21 YEARS OF AGE**

Any person who shall sell or provide liquor to any person under the age of 21 years shall be guilty of a violation of this Ordinance for each sale or drink provided.

**§ 14.023      TRANSFER OF IDENTIFICATION TO MINOR**

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Any person who transfers in any manner an identification of age to a minor for the purpose of permitting such minor to obtain liquor shall be guilty of an offense; provided, that corroborative testimony of a witness other than the minor shall be a requirement of finding a violation of this ordinance.

**§ 14.024      USE OF FALSE OR ALTERED IDENTIFICATION**

Any person who attempts to purchase an alcoholic beverage through the use of false or altered identification which falsely purports to show the individual to be over the age of 21 years shall be guilty of violating this Ordinance.

**§ 14.025      VIOLATION OF THIS ORDINANCE**

Any person guilty of a violation of this Ordinance shall be liable to pay the Siletz Tribe a penalty not to exceed \$500 per violation as civil damages to defray the Siletz Tribe's cost of enforcement of this Ordinance. In addition to any penalties so imposed, any license issued hereunder may be suspended or canceled by the Committee for the violation of any of the provisions of this Ordinance, or of the tribal license, upon hearing before the Committee after 10 days notice to the licensee. The decision of the Committee shall be final.

**§ 14.026      ACCEPTABLE IDENTIFICATION**

(a) Where there may be a question of a person's right to purchase liquor by reason of his/her age, such person shall be required to present any one of the following issued cards of identification which shows his/her correct age and bears his/her signature and photograph:

- (1) Driver's license of any state or identification card issued by any State Department of Motor Vehicles;
- (2) United States Active Duty Military Identification;
- (3) Passport.

**§ 14.027      POSSESSION OF LIQUOR CONTRARY TO THIS ORDINANCE**

Alcoholic beverages which are possessed contrary to the terms of this Ordinance are

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declared to be contraband. Any tribal agent, employee, or officer who is authorized by the Committee to enforce this section shall have the authority to and shall seize, all contraband.

**§ 14.028      DISPOSITION OF SEIZED CONTRABAND**

Any officer seizing contraband shall preserve the contraband in accordance with applicable law. Upon being found in violation of the Ordinance by the Committee, the party shall forfeit all right, title and interest in the items seized which shall become the property of the Siletz Tribe.

**PART VII**  
**TAXES**

**§ 14.029      SALES TAX**

The Committee shall have the authority, by regulation, to levy and collect a sales tax on each sale of alcoholic beverages on the Reservation. The amount of such tax shall be set by regulation, shall include credit card payments, and shall include all retail sales of liquor on the Reservation.

**§ 14.030      PAYMENT OF TAXES TO TRIBE**

All taxes from the sale of alcoholic beverages on the Reservation shall be paid over to the agent of the Siletz Tribe.

**§ 14.031      TAXES DUE**

All taxes for the sale of alcoholic beverages on the Reservation are due within thirty (30) days of the end of the calendar quarter for which the taxes are due.

**§ 14.032      REPORTS**

Along with payment of the taxes imposed herein, the taxpayers shall submit an accounting for the quarter of all income from the sale or distribution of said beverages as well as for the taxes collected.

**§ 14.033      AUDIT**

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As a condition of obtaining a license, the licensee must agree to the review or audit of its books and records relating to the sale of alcoholic beverages on the Reservation. Said review or audit may be done annually by the Tribe through its agents or employees whenever, in the opinion of the Committee, such a review or audit is necessary to verify the accuracy of reports.

**PART VIII**  
**PROFITS**

**§ 14.034      DISPOSITION OF PROCEEDS**

(a) The gross proceeds collected by the Committee from all licensing and provided from the taxation of the sales of alcoholic beverages on the Reservation shall be distributed as follows:

- (1) For the payment of all necessary personnel, administrative costs, and legal fees for the operation of the Committee and its activities.
- (2) The remainder shall be turned over the account of the Tribe.

**PART IX**  
**SEVERABILITY AND MISCELLANEOUS**

**§ 14.035      SEVERABILITY**

If any provision or application of this ordinance is determined by review to be invalid, such adjudication shall not be held to render ineffectual the remaining portions of this Ordinance or to render such provisions inapplicable to other persons or circumstances.

**§ 14.036      PRIOR ENACTMENTS**

All prior enactments of the Tribal Council which are inconsistent with the provisions of this Ordinance are hereby rescinded.

**§ 14.037      CONFORMANCE WITH OREGON LAWS**

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All acts and transactions under this Ordinance shall be in conformity with the laws of the State of Oregon as that term is used in 18 U.S.C. §1161.

**§ 14.038      EFFECTIVE DATE**

This Ordinance shall be effective on [insert date of publication in the **FEDERAL REGISTER**].

**PART X**  
**AMENDMENT**

**§ 14.039      AMENDMENT**

This ordinance may only be amended or repealed by a majority vote of the Tribal Council. The authorized areas of the Tribe's reservation where alcohol may be sold may only be amended or repealed by the General Council.

**PART XI**  
**SOVEREIGN IMMUNITY**

**§ 14.040      SOVEREIGN IMMUNITY**

Nothing contained in this Ordinance is intended to, nor does in any way limit, alter, restrict, or waive the Tribe's sovereign immunity from unconsented suit.

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