

**BLUE LAKE RANCHERIA  
LIQUOR LICENSING ORDINANCE**

10-2000



ORDINANCE NO. 00-10

AN ORDINANCE OF THE BUSINESS COUNCIL OF THE  
BLUE LAKE RANCHERIA OF CALIFORNIA ADOPTING AN  
ORDINANCE ENTITLED "LIQUOR LICENSING  
ORDINANCE."

The Business Council ("Council") of the Blue Lake Rancheria of California ("Tribe") does hereby ordain as follows:

**Section 1. Declaration of Findings.** The Council hereby finds as follows:

1. Under Article V, Section 6, subsections (g), (i), (j), (m), and (o), of the Constitution of the Tribe, the Council has the power to regulate by ordinance the use and development of tribal lands, to license and regulate the conduct of all business activities on the Reservation, to enact laws and codes governing conduct of individuals and prescribing offenses against the Tribe, and to prescribe the conditions under which non-members may enter and remain on the Reservation.

2. The introduction, possession and sale of alcoholic beverages on the Blue Lake Rancheria is 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 Blue Lake 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 Blue Lake Rancheria and providing for the purchase and sale of alcoholic beverages through tribally licensed outlets will increase the ability of the tribal government to control the distribution, sale and possession of liquor on the Blue Lake Rancheria, 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.

**Section 2. Declaration of Policy.** 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 Blue Lake Rancheria and to promote temperance in the use and consumption of alcoholic beverages by increasing tribal control over the possession and distribution of alcoholic beverages on the Reservation.

**LIQUOR LICENSING ORDINANCE**  
**OF THE BLUE LAKE RANCHERIA OF CALIFORNIA**

Chapters:

- 01 Introduction
- 02 General Provisions
- 04 Definitions
- 06 Prohibition of the Unlicensed Sale of Liquor
- 08 Application for License
- 10 Issuance, Renewal, and Transfer of Licenses
- 12 Revocation of Licenses
- 14 Enforcement

Chapter 01

Sections:

- 01.010 Title.
- 01.020 Authority.
- 01.030 Purpose.
- 01.040 Effective Date.

Section 01.010 Title. This Ordinance shall be known as the "Liquor Control Ordinance of the Blue Lake Rancheria of California."

Section 01.020 Authority. This Ordinance is enacted pursuant to the Act of August 15, 1953 (Pub L. 83-277, 67 Stat. 588, 18 U.S.C. §1161), and Article V, Section 6 of the Constitution of the Blue Lake Rancheria of California.

Section 01.030 Purpose. The purpose of this ordinance is to regulate and control the possession and sale of liquor on the Blue Lake Rancheria in Humboldt County, California. The enactment of a tribal ordinance governing liquor possession and sale on the Reservation will increase the ability of the tribal government to control Reservation liquor distribution and possession, and, at the same time, will provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal government services.

Section 01.040 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.

Chapter 02

GENERAL PROVISIONS

Sections:

- 02.010 Short title.
- 02.020 Purpose.
- 02.030 Sovereign immunity preserved.
- 02.040 Applicability within the Reservation.
- 02.050 Possession of alcoholic beverages.
- 02.060 Interpretation and findings.
- 02.070 Conflicting provisions.
- 02.080 Application of 18 U.S.C. §1161.

02.010 Short title. This ordinance shall be known and cited as the "Blue Lake Rancheria Liquor Licensing Ordinance."

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

02.030 Sovereign immunity preserved. Nothing in this ordinance is intended nor shall be construed as a waiver of the sovereign immunity of the Blue Lake Rancheria of California. No officer or employee of the Blue Lake Rancheria of California 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 express and explicit written authorization from the Blue Lake Rancheria General Council pursuant to Article V, Section 3.h of the Constitution of the Blue Lake Rancheria.

02.040 Applicability within the Reservation. This ordinance shall apply to all persons within the exterior boundaries of the Blue Lake Rancheria consistent with the applicable federal Indian liquor laws.

02.050 Possession of alcoholic beverages. Nothing in this Ordinance shall be interpreted as prohibiting the possession, transportation or consumption of alcoholic beverages within the boundaries of the Blue Lake Rancheria. Possession, transportation and/or consumption of alcoholic beverages within the exterior boundaries of the Reservation in conformity with the provisions of Federal law relating to the possession, transportation, or consumption of alcoholic beverages is expressly permitted under this Ordinance.

02.060 Interpretation and findings. The Council in the first instance may interpret any ambiguities contained in this ordinance.

02.070 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.

02.080 Application of 18 U.S.C. §1161. The importation, manufacture, distribution and sale

of alcoholic beverages on the Blue Lake Rancheria 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 04

### DEFINITIONS

#### Sections:

- 04.010 Interpretation.
- 04.020 Alcohol.
- 04.030 Alcoholic beverage.
- 04.040 Beer.
- 04.050 Distilled spirits.
- 04.060 Importer.
- 04.070 Liquor license.
- 04.080 Manufacturer.
- 04.090 Person.
- 04.100 Reservation.
- 04.110 Sale.
- 04.120 Seller.
- 04.130 Business Council.
- 04.140 Tribe.
- 04.150 Wine.

04.010 Interpretation. 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.

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

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

04.040 Beer. "Beer" means 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.

04.050 Distilled spirits. "Distilled spirits" means 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.

04.060 Importer. "Importer" means any person who introduces alcohol or alcoholic beverages into the Blue Lake Rancheria from outside the exterior boundaries of 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 a seller licensed by a state or tribal government to sell at retail.

04.070 Liquor license. "Liquor license" means a license issued by the Blue Lake Business 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.

04.080 Manufacturer. "Manufacturer" means any person engaged in the manufacture of alcohol or alcoholic beverages.

04.090 Person. "Person" means any individual, whether Indian or non-Indian, receiver, assignee, 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."

04.100 Reservation. "Reservation" means all lands within the exterior boundaries of the Blue Lake 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.

04.110 Sale. "Sale" means 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 pursuant to an order placed for the purchase of such beverages, or soliciting or receiving such beverages.

04.120 Seller. "Seller" means any person who, while within the exterior boundaries of the Reservation, sells, solicits or receives an order for any alcohol, alcoholic beverages, distilled spirits, beer, or wine.

04.130 Business Council. "Business Council" or "Council" means the Blue Lake Business Council.

04.140 Tribe. "Tribe" means the Blue Lake Rancheria of California.

04.150 Wine. "Wine" means 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.

## Chapter 06

### PROHIBITION OF THE UNLICENSED SALE OF LIQUOR

#### Sections:

06.010 Prohibition of the unlicensed sale of liquor.

06.020 Authorization to sell liquor.

06.030 Types of licenses.

06.010 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 issued in accordance with the provisions of this ordinance.

06.020 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.

06.030 Types of licenses. The Council shall have the authority to issue the following types of liquor licenses within the reservation:

A. "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.

B. "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.

C. "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.

D. "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.

E. "Manufacturer's license" means a license authorizing the applicant to manufacture alcoholic beverages for the purpose of sale on the reservation.

## Chapter 08

### APPLICATION FOR LICENSE

#### Sections:

- 08.010 Application form and content.
- 08.020 Fee accompanying application.
- 08.030 Investigation; denial of application.

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

- A. 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.
- B. The specific area, location and/or premises for which the license is applied for.
- C. The type of liquor transaction applied for (i.e. retail on-sale general license, etc.).
- D. Whether the applicant has a state liquor license.
- E. 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.

F. 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.

G. The application shall be verified under oath, notarized and accompanied by the license fee required by this ordinance.

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

- A. Retail on-sale general license;
- B. Retail on-sale beer and wine license;
- C. Retail off-sale general license;
- D. Retail off-sale beer and wine liquor; and
- E. Manufacturer's license.

08.030 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 10.20 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 10

### ISSUANCE, RENEWAL AND TRANSFER OF LICENSES

#### Sections:

- 10.010 Public hearing.
- 10.020 Council action on application.
- 10.030 Multiple locations.
- 10.040 Term of License / Temporary License.
- 10.050 Transfer of licenses.

10.010 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.

10.020 Council action on 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.

10.030 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.

10.040 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 beverages 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.

10.050 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 08.010 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 12

### REVOCAION OF LICENSES

#### Sections:

- 12.010 Revocation of licenses.
- 12.020 Accusations.

12.030 Hearing.

12.010 Revocation of licenses. The Council shall revoke a license upon any of the following grounds:

- A. The misrepresentation of a material fact by an applicant in obtaining a license or a renewal thereof.
- B. The violation of any condition imposed by the Council on the issuance, transfer or renewal of a license.
- C. 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.
- D. The violation of any tribal ordinance.
- E. The failure to take reasonable steps to correct objectionable conditions constituting a nuisance on the licensed premises or any immediately adjacent area leased, assigned or rented by the licensee within a reasonable time after receipt of a notice to make such corrections has been received from the Council or its authorized representative.

12.020 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. 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. Upon receipt of an accusation, the Secretary of the Council shall cause the matter to be set for a hearing before the Council. 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.

12.030 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 14

### ENFORCEMENT

#### Sections:

- 14.010. Right to inspect.
- 14.020 General penalties.
- 14.030 Initiation of action.

14.010 Right to Inspect. Any premises within the area under the jurisdiction of this Ordinance on which liquor is sold or distributed shall be open for inspection by representatives of the Council at all reasonable times during business hours for the purposes of ascertaining whether the rules and regulations of this Ordinance are being complied with.

14.020 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 (\$500.00) 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 (\$500.00) 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 Blue Lake Tribal Code.

14.020 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, if the tribal court does not have jurisdiction over the action, in the United States District Court for the Northern District of California, 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.

Section 4. 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 other 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.

CERTIFICATION

The foregoing Ordinance was adopted on this 9<sup>th</sup> day of July 2000, at a regular meeting of the Blue Lake Business Council, with a quorum present, by the following vote:

AYES: 5  
NOES: 0  
ABSENT: 0  
ABSTAIN: 0

*Claudia Brunden*  
Chairperson

ATTESTED:

*Melanie Shelonsky*  
Tribal Secretary



**BLUE LAKE RANCHERIA**

Post Office Box 428

Blue Lake, California 95525-0428

BUS: (707) 668-5101 • OFFICE: (707) 668-5615 • FAX: (707) 668-4272

July 26, 2000

Dr. Virgil Akins, Superintendent  
Northern California Agency  
Bureau of Indian Affairs  
1900 Churn Creek Road, Suite 300  
Redding, CA 96002-0292

RE: Review of Blue Lake Rancheria's Liquor Licensing Ordinance

Dear Dr. Akins:

Enclosed please find an original copy of the Blue Lake Rancheria Tribal Business Council's Resolution 00-23 adoption of the Blue Lake Rancheria's Liquor Licensing Ordinance # 00-10. Attached to that resolution is a hard copy of the adopted ordinance and an electronic copy on 3 ½ floppy disk formatted for IBM using Microsoft Word Office 2000 version.

The Council is aware that Area office reviews and consults with the Regional Solicitor on ordinances of this nature. After Area's initial review, their offices should forward all original documents and electronic copies to the Branch of Judicial Services in Washington, D.C. After approval by Judicial Services, the order approving the ordinance is signed by the Assistant Secretary of Indian Affairs and is published in the Federal Register. Considering the lengthy process that this ordinance will go through before approval, the Tribal Business Council requests that the enclosed information be forwarded immediately to the Area office so that they may begin their review.

The Council wishes to express their thanks in expediting this process.

Sincerely,



Claudia Brundin  
Tribal Chairperson

CB/ada

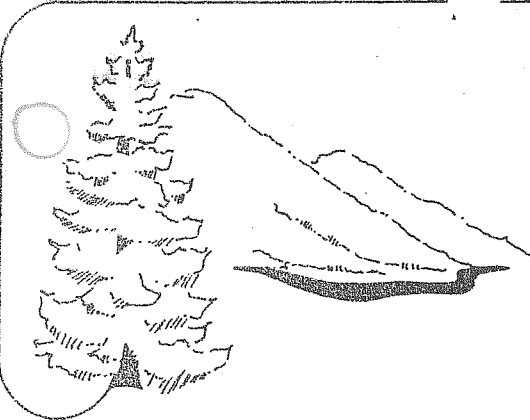
Enclosures

1. Agendas for the meeting

2. Minutes







## BLUE LAKE RANCHERIA

Post Office Box 428

Blue Lake, California 95525-0428

BUS: (707) 668-5101 • OFFICE: (707) 668-5615 • FAX: (707) 668-4272

### RESOLUTION OF THE BLUE LAKE RANCHERIA No. 00-23

**SUBJECT:** FORMAL ADOPTION OF AN ORDINANCE OF THE BUSINESS COUNCIL OF THE BLUE LAKE RANCHERIA OF CALIFORNIA ENTITLED "LIQUOR LICENSING ORDINANCE."

**WHEREAS:** the Blue Lake Rancheria is a federally recognized Indian tribe eligible for all rights and privileges afforded to recognized Tribes; and

**WHEREAS:** the Rancheria Constitution has been approved by the Assistant Secretary of the Indian Affairs on March 22, 1989, and an amendment to the Constitution was approved on February 11, 1994 authorizing full governmental powers to the duly elected Business Council; and

**WHEREAS:** the ordinance adopted by this Resolution is enacted pursuant to the Act of August 15, 1953 known as Public Law 83-277, 67 State. 588, 18 U.S.C. § 1161 and Article V, Section 6 of the Constitution of the Blue Lake Rancheria of California; and

**WHEREAS:** the Tribal Business Council has insured that the Tribal Ordinance adopted through this Resolution conforms with the laws of the State of California as that phrase of term is used in 18 U.S.C § 1161; and

**WHEREAS:** the Tribe is entering into an entertainment oriented economic development project which will include a food services areas serving food and beverages; and

**WHEREAS:** the Tribal Council feels that this ordinance will offer enhanced entertainment value and make the economic development project a complete and competitive facility.

**NOW THEREFORE BE IT RESOLVED:**

that the Blue Lake Rancheria Business Council hereby adopts the Liquor Licensing Ordinance (as attached).

**CERTIFICATION**

As the Chairperson of the Business Council for the Blue Lake Rancheria, I hereby certify that the Business Council amended this resolution by a vote of 5 for, with 0 against, with abstaining, with 0 absent on this 9th day of July 2000.

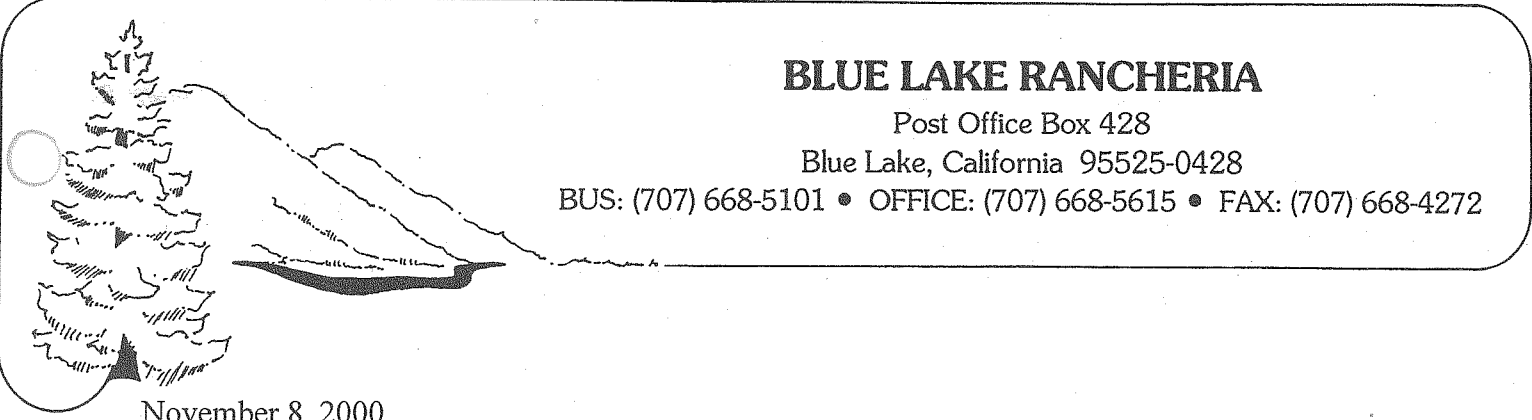
*Claudia Brundin*  
Claudia Brundin, Chairperson

*July 9, 2000*  
Date of Approval

**ATTEST:**

*Melanie Shelanskey*  
Melanie Shelanskey, Tribal Secretary

*July 9, 2000*  
Date of Approval



**BLUE LAKE RANCHERIA**

Post Office Box 428

Blue Lake, California 95525-0428

BUS: (707) 668-5101 • OFFICE: (707) 668-5615 • FAX: (707) 668-4272

November 8, 2000

Ron Jaeger  
Bureau of Indian Affairs  
Sacramento Area Office  
2800 Cottage Way  
Sacramento, CA 95825

RE: Change to Liquor Ordinance

Dear Mr. Jaeger:

Per your conversation with our lawyer, David Rapport, and the instructions given to him by you regarding necessary changes to our liquor ordinance, the Blue Lake Rancheria Tribal Business Council has made the following changes to add the word "consumption" to section 2.080 so that it reads:

The importation, manufacture, distribution, consumption, and sale of alcoholic beverages on the Blue Lake Rancheria 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.

The Tribal Business Council has made that change in the attached revision of the ordinance.

We would like to request that the revised ordinance be reviewed and transferred to the Washington, DC office so that it may be forwarded to the Assistant Secretary for approval and publication in the Federal Register.

Thank you for your time and consideration.

Sincerely,

Claudia Brundin  
Tribal Chairperson

CB/ada



ORDINANCE NO. 00-10

AN ORDINANCE OF THE BUSINESS COUNCIL OF THE BLUE LAKE  
RANCHERIA OF CALIFORNIA ADOPTING AN ORDINANCE  
ENTITLED "LIQUOR LICENSING ORDINANCE."

The Business Council ("Council") of the Blue Lake Rancheria of California ("Tribe") does hereby ordain as follows:

**Section 1. Declaration of Findings.** The Council hereby finds as follows:

1. Under Article V, Section 6, subsections (g), (i), (j), (m), and (o), of the Constitution of the Tribe, the Council has the power to regulate by ordinance the use and development of tribal lands, to license and regulate the conduct of all business activities on the Reservation, to enact laws and codes governing conduct of individuals and prescribing offenses against the Tribe, and to prescribe the conditions under which non-members may enter and remain on the Reservation.

2. The introduction, possession, consumption and sale of alcoholic beverages on the Blue Lake Rancheria is 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 Blue Lake 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 Blue Lake Rancheria and providing for the purchase and sale of alcoholic beverages through tribally licensed outlets will increase the ability of the tribal government to control the distribution, sale, consumption and possession of liquor on the Blue Lake Rancheria, 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.

**Section 2. Declaration of Policy.** 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 Blue Lake Rancheria and to promote temperance in the use and consumption of alcoholic beverages by increasing tribal control over the possession and distribution of alcoholic beverages on the Reservation.

LIQUOR LICENSING ORDINANCE

OF THE BLUE LAKE RANCHERIA OF CALIFORNIA

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02.010 Short title. This ordinance shall be known and cited as the "Blue Lake Rancheria Liquor Licensing Ordinance."

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

02.030 Sovereign immunity preserved. Nothing in this ordinance is intended nor shall be construed as a waiver of the sovereign immunity of the Blue Lake Rancheria of California. No officer or employee of the Blue Lake Rancheria of California 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 express and explicit written authorization from the Blue Lake Rancheria General Council pursuant to Article V, Section 3.h of the Constitution of the Blue Lake

Rancheria.

02.040 Applicability within the Reservation. This ordinance shall apply to all persons within the exterior boundaries of the Blue Lake Rancheria consistent with the applicable federal Indian liquor laws.

02.050 Possession of alcoholic beverages. Nothing in this Ordinance shall be interpreted as prohibiting the possession, transportation or consumption of alcoholic beverages within the boundaries of the Blue Lake Rancheria. Possession, transportation and/or consumption of alcoholic beverages within the exterior boundaries of the Reservation in conformity with the provisions of Federal law relating to the possession, transportation, or consumption of alcoholic beverages is expressly permitted under this Ordinance.

02.060 Interpretation and findings. The Council in the first instance may interpret any ambiguities contained in this ordinance.

02.070 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.

02.080 Application of 18 U.S.C. §1161. The importation, manufacture, distribution, consumption and sale of alcoholic beverages on the Blue Lake Rancheria 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 04

#### DEFINITIONS

##### Sections:

- 04.010 Interpretation.
- 04.020 Alcohol.
- 04.030 Alcoholic beverage.
- 04.040 Beer.
- 04.050 Distilled spirits.
- 04.060 Importer.
- 04.070 Liquor license.
- 04.080 Manufacturer.
- 04.090 Person.
- 04.100 Reservation.
- 04.110 Sale.
- 04.120 Seller.
- 04.130 Business Council.
- 04.140 Tribe.
- 04.150 Wine.

04.010 Interpretation. 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.

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

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

04.040 Beer. "Beer" means 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.

04.050 Distilled spirits. "Distilled spirits" means 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.

04.060 Importer. "Importer" means any person who introduces alcohol or alcoholic beverages into the Blue Lake Rancheria from outside the exterior boundaries of 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 a seller licensed by a state or tribal government to sell at retail.

04.070 Liquor license. "Liquor license" means a license issued by the Blue Lake Business 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.

04.080 Manufacturer. "Manufacturer" means any person engaged in the manufacture of alcohol or alcoholic beverages.

04.090 Person. "Person" means any individual, whether Indian or non-Indian, receiver, assignee, 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."

04.100 Reservation. "Reservation" means all lands within the exterior boundaries of the Blue Lake 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.

04.110 Sale. "Sale" means 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 pursuant to an order placed for the purchase of such beverages, or soliciting or receiving such beverages.

04.120 Seller. "Seller" means any person who, while within the exterior boundaries of the Reservation, sells, solicits or receives an order for any alcohol, alcoholic beverages, distilled spirits, beer, or wine.

04.130 Business Council. "Business Council" or "Council" means the Blue Lake Business Council.

04.140 Tribe. "Tribe" means the Blue Lake Rancheria of California.

04.150 Wine. "Wine" means 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.

## Chapter 06



## PROHIBITION OF THE UNLICENSED SALE OF LIQUOR

### Sections:

06.010 Prohibition of the unlicensed sale of liquor.

06.020 Authorization to sell liquor.

06.030 Types of licenses.

06.010 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 issued in accordance with the provisions of this ordinance.

06.020 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.

06.030 Types of licenses. The Council shall have the authority to issue the following types of liquor licenses within the reservation:

A. "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.

B. "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.

C. "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.

D. "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.

E. "Manufacturer's license" means a license authorizing the applicant to manufacture alcoholic beverages for the purpose of sale on the reservation.

## Chapter 08

### APPLICATION FOR LICENSE

### Sections:

08.010 Application form and content.

08.020 Fee accompanying application.

08.030 Investigation; denial of application.

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

A. 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.

B. The specific area, location and/or premises for which the license is applied for.

- C. The type of liquor transaction applied for (i.e. retail on-sale general license, etc.).
- D. Whether the applicant has a state liquor license.
- E. 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.
- F. 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.
- G. The application shall be verified under oath, notarized and accompanied by the license fee required by this ordinance.

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

- A. Retail on-sale general license;
- B. Retail on-sale beer and wine license;
- C. Retail off-sale general license;
- D. Retail off-sale beer and wine liquor; and
- E. Manufacturer's license.

08.030 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 10.20 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 10

### ISSUANCE, RENEWAL AND TRANSFER OF LICENSES

#### Sections:

- 10.010 Public hearing.
- 10.020 Council action on application.
- 10.030 Multiple locations.
- 10.040 Term of License / Temporary License.
- 10.050 Transfer of licenses.

10.010 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.

10.020 Council action on 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.

10.030 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.

10.040 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 beverages 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.

10.050 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 08.010 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 12

### REVOCATION OF LICENSES

#### Sections:

- 12.010 Revocation of licenses.
- 12.020 Accusations.
- 12.030 Hearing.

12.010 Revocation of licenses. The Council shall revoke a license upon any of the following grounds:

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

C. 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.

D. The violation of any tribal ordinance.

E. The failure to take reasonable steps to correct objectionable conditions constituting a nuisance on the licensed premises or any immediately adjacent area leased, assigned or rented by the licensee within a reasonable time after receipt of a notice to make such corrections has been received from the Council or its authorized representative.

12.020 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. 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. Upon receipt of an accusation, the Secretary of the Council shall cause the matter to be set for a hearing before the Council. 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.

12.030 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 14

### ENFORCEMENT

#### Sections:

- 14.010 Right to inspect.
- 14.020 General penalties.
- 14.030 Initiation of action.

14.010 Right to Inspect. Any premises within the area under the jurisdiction of this Ordinance on which liquor is sold or distributed shall be open for inspection by representatives of the Council at all reasonable times during business hours for the purposes of ascertaining whether the rules and regulations of this Ordinance are being complied with.

14.020 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 (\$500.00) 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 (\$500.00) 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 Blue Lake Tribal Code.

14.020 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, if the tribal court does not have jurisdiction over the action, in the United States District Court for the Northern District of California, 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.

Section 4. 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 other 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.

CERTIFICATION

The foregoing Ordinance was adopted on this 8th day of November, 2000 at a regular meeting of the Blue Lake Business Council, with a quorum present, by the following vote:

AYES: 5  
NOES: 0  
ABSENT: 0  
ABSTAIN: 0

*Claudia Brenden* 11/8/00  
Chairperson                      Date

ATTESTED:

*Melanie Shelansky* 11/8/00  
Tribal Secretary                      Date

