DEPARTMENT OF THE INTERIOR
Bureau of Indian Affairs
St. Croix Chippewa Indians of Wisconsin Alcoholic Beverage Control Ordinance
AGENCY: Bureau of Indian Affairs, Interior.
ACTION: Notice.
SUMMARY: This notice publishes the Secretary’s certification of the amended St. Croix Chippewa Indians of Wisconsin Alcoholic Beverage Control Ordinance. The amended Ordinance regulates and controls the possession, sale, and consumption of liquor within the tribal lands. The tribal lands are located in Indian Country and this Ordinance allows for possession and sale of alcoholic beverages within their boundaries. This Ordinance will increase the ability of the tribal government to control the tribe’s 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 services.
DATES: Effective Date: This Ordinance is effective July 12, 2010.
FOR FURTHER INFORMATION CONTACT: David Christensen, Tribal Operations Officer, Midwest Regional Office, One Federal Drive, Room 550, Ft. Snelling, MN 55111, Telephone (612) 725-4554; or Elizabeth Colliflower, Office of Tribal Services, 1849 C Street, NW., Mail Stop 4513–MB, Washington, DC 20240; Telephone (202) 513–7640.

The St. Croix Tribal Council of the adopted this amended Liquor Ordinance on December 3, 2009. The purpose of this Ordinance is to govern the sale, possession and distribution of alcohol within the St. Croix tribal lands. This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs. I certify that this Alcoholic Beverage Control Ordinance was duly adopted by the Tribal Council of the St. Croix Chippewa Indians of Wisconsin by Resolution No. 12–3–09–01 on December 3, 2009.

Dated: June 1, 2010.
Paul Tsosie,
Chief of Staff, Office of the Assistant Secretary—Indian Affairs.

The St. Croix Chippewa Indians of Wisconsin Alcoholic Beverage Control Ordinance reads as follows:

St. Croix Chippewa Indians of Wisconsin Alcoholic Beverage Control Ordinance


Section 1. Title

This Ordinance shall be known as the St. Croix Chippewa Indians of Wisconsin Alcoholic Beverage Control Ordinance.

Section 2. Definitions

As used in this Ordinance:
(a) "Alcoholic Beverages" shall mean fermented malt beverages and intoxicating liquor.
(b) "Fermented Malt Beverages" shall mean any beverage made by the alcohol fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degemerminated grains or sugar containing 0.5% or more of alcohol by volume.
(c) "Licensee" shall mean any Class A or Class B Beer License, and Class A Liquor License, and any Beer or Liquor Wholesalers License.
(d) "Intoxicating Liquor" shall mean all ardent, spiritsuous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing 0.5% or more of alcohol by volume, which are beverages, but does not include "Fermented Malt Beverages."
(e) "Minor" shall mean any person under twenty-one (21) years of age.
(f) "Tribal" shall mean the St. Croix Chippewa Indians of Wisconsin.
(g) "Council" shall mean the duly elected governing body of the St. Croix Chippewa Indians of Wisconsin.
(h) "Package" shall mean the original container or receptacle used for holding intoxicating liquor or fermented malt beverages.
(i) "Possession" or "Possessing" shall mean control over one’s person, vehicle or other property and includes constructive possession through control without regard to ownership.
(j) "Premises" shall mean the area described in a License.
(k) "Purchase" shall mean exchange, barter, traffic, receipt, with or without consideration in any form.
(l) "Sale" shall mean exchange, barter, traffic, donation, with or without consideration, in addition to the selling, supplying or distribution by any means, by any person to any person.
(m) "Transportation" or "Transport" shall mean the introduction of alcoholic beverage onto the Indian country under the jurisdiction of the Tribe by any means of conveyance for the purpose of sale or distribution.

Section 3. Conformity With Tribal and State Law Required

The introduction, possession, transportation, and sale of alcoholic beverages shall be lawful within the Indian country under the jurisdiction of the Tribe, provided that such introduction, possession, transportation, and sale are in conformity with the provisions of this Ordinance and the laws of the State of Wisconsin pursuant to 18 U.S.C. 1161.

Section 4. Tribal License Required

No person or entity shall engage in the sale of any alcoholic beverage within the Indian country under the jurisdiction of the Tribe, unless duly licensed to do so by the State of Wisconsin and the Tribe in accordance with the terms of this Ordinance.

Section 5. Retail License Classes

The Council may issue licenses to retailers in the following classes:
(a) "Class A Beer License," shall authorize the retail sale of fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles.
(b) "Class B Beer License," shall authorize the retail sale of fermented malt beverages either for consumption on or off the premises where sold and in the original packages, containers or bottles if sold for off premises consumption.
(c) "Class B Liquor License," shall authorize the retail sale of alcoholic beverages only for consumption away from the premises where sold and in the original packages, containers or bottles.
(d) "Class B Liquor License," shall authorize the sale of alcoholic beverages to be consumed by the glass only on the premises where sold and also authorizes the sale of alcoholic beverages in the original package or container, to be consumed off the premises where sold.
(e) "Temporary License," shall be a Class B Beer License issued to bonafide clubs, fair
Section 6. Wholesale License Classes

The Council may issue licenses to wholesalers in the following classes:

(a) “Beer Wholesaler License,” shall authorize the sale of fermented malt beverages from premises located within Indian country under the jurisdiction of the Tribe, only in the original package or container, to retailers or wholesalers, not to be consumed in or about the premises where sold.

(b) “Liquor Wholesaler License,” shall authorize the sale of alcoholic beverages from premises located within Indian country under the jurisdiction of the Tribe, only in the original package or container in quantities of not less than four liters at any time to retailers or wholesalers, not to be consumed in or about the premises where sold.

Section 7. License Fees

The Council shall by resolution set the annual fee for each class of license and combination thereof. The fee shall be prorated for the remaining months of the year if the License is obtained after March 1.

Section 8. Application for Tribal License: Requirements

Application for a License shall be made to the Council by the person or authorized representative of the entity which seeks to sell and serve alcoholic beverages. No Tribal License shall issue under this Ordinance except upon sworn application, containing a full and complete showing of the following:

(a) The name and address of the person or entity making the application;

(b) If the applicant is a corporation, partnership, or other non-governmental entity, identification of all persons or entities owning or managing (10%) or more in that entity and all persons or entities owning or controlling the entity, identification of all persons or entities (owners and managers), to be of good character, financially responsible;

(c) Such other information as the Council may require.

Section 9. Hearing on Application for a License

All applications for a License shall be acted upon by the Council within 45 days from the time a completed application is received by the Council. All applications for a License shall be considered by the Council in public session at which the applicants, their owners and managers, have been convicted of or pled guilty to any felony at any time, or any misdemeanor within the last five years that involved or related to: liquor, controlled substances, violence, theft, dishonesty, bribery, obstruction of law enforcement, tampering with witnesses, gambling, exploitation of children or any other crime where a child is the victim, any crime involving loss or destruction of Tribal property, as well as conspiracy or attempt to commit any of the foregoing crimes. An applicant and any of its owners or managers will be found to have failed a financial background check if any of them have declared bankruptcy or insolvency within the past five years, are delinquent on any debt owed to or guaranteed by the Tribe, any agency of the Tribe, or corporation owned or controlled by the Tribe, or any of them have any other delinquent debts or obligations which indicate that the applicant is not financially responsible;

(g) Information stating whether the applicant, its owners and managers, have previously applied for a liquor license from any jurisdiction, the name of the jurisdiction, the date(s) of such application, whether the license was granted, and if granted, the period the license was in effect, and satisfactory proof that the applicants, its owners and managers, have not previously been denied a liquor license, or found to have violated the terms or conditions of any liquor license, or had any liquor license revoked or cancelled;

(b) Evidence that the applicant is or will be duly licensed under the laws of the State of Wisconsin;

(i) Satisfactory proof that notice of the application has been posted in a prominent, noticeable place on the premises where alcoholic beverages are to be sold for at least 30 days prior to consideration by the Council and has been published at least twice in such local newspaper serving the community that may be affected by the License as the Tribal Chairman or Secretary may authorize. Notice shall state the time and place when the application shall be considered by the Council;

(j) Payment of a non-refundable application fee of $250, or $50 for a Temporary License;

(k) Such other information as the Council may require.

Section 10. Conditions of a License

Any Tribal License issued under this Ordinance shall be subject to such reasonable conditions as the Council shall fix including, but not limited to, the following:

(a) The License (other than a Temporary License) shall be for a term of not more than one year and each License shall expire on January 1. A Temporary License shall be for a specified period of not to exceed seven days.

(b) The licensee shall at all times maintain an orderly, clean, and neat establishment, both inside and outside the licensed premises.

(c) The licensed premises shall be subject to patrol by the Tribal Police Department, and such other law enforcement officials as may be authorized under Tribal, federal or state law, and the licensee shall cooperate with all duly authorized law enforcement officers.

(d) The licensed premises shall be open to inspection by duly authorized Tribal officials at all times during the regular business hours.

(e) Subject to the provisions of Subsection (f) of this section, no alcoholic beverages shall be sold, served, disposed of, delivered, or given to any person, or consumed on a licensed premises except in conformity with the hours and days prescribed by the laws of Wisconsin, and in accordance with the hours and days prescribed by the Council, provided that the licensed premises shall not open earlier or operate or close later than is permitted by the laws of Wisconsin.

(f) No alcoholic beverages shall be sold:

(1) Within 200 feet of a polling place on tribal election days, or when a referendum is held of the people of the Tribe, or

(2) On special days of observance as designated by the Council.

(g) All acts and transactions under authority of a Tribal License shall be in conformity with the License, this Ordinance, and other applicable Tribal and State law.

(h) No person under the age of 21 shall be sold, served, delivered, given or allowed to consume alcoholic beverages in or by a licensed establishment. Where there may be a question of a person’s right to purchase an alcoholic beverage by reason of his or her age, such person shall be required to present any one of the following forms of identification which shows his or her correct age and bears his or her signature and photograph:

(1) A driver’s license of any state or tribe or identification card issued by any state or tribal department of motor vehicles;

(2) United States active duty military ID;

(3) A passport; or

(4) A St. Croix Chippewa tribal identification card or other recognized tribal identification card.

(i) Licenses, except for Temporary Licenses, shall expire January 1 of each year. Any person or entity seeking a License for a subsequent year shall, by November 15 of the prior year, comply with the procedures and meet all the requirements of Sections 8 and 9 of this Ordinance.

(j) Every licensee shall post and keep its License in a conspicuous place on the licensed premises.

Section 11. Prohibited Activities

It shall be a violation of this Ordinance for any person:

(a) To sell or offer for sale or distribute or transport in any manner, any alcoholic beverages from premises located within Indian country under the jurisdiction of the Tribe, only in the original package or container in quantities of not less than four liters at any time to retailers or wholesalers, not to be consumed in or about the premises where sold.
beverage or to have alcoholic beverages in his possession with intent to sell or distribute without a License;

(b) To buy any alcoholic beverage from any person other than a person or entity holding a License as required by this Ordinance;

(c) To sell or provide any alcoholic beverage to any person under the age of 21 years;

(d) To permit any person under the age of 21 years to consume any alcoholic beverage on or near his or her premises or school property under his or her control;

(e) To transfer in any manner an identification of age to a minor for the purpose of permitting such minor to obtain any alcoholic beverage;

(f) To attempt to purchase an alcoholic beverage through the use of a false or altered identification;

(g) To consume, acquire or have in his or her possession any alcoholic beverage while under 21 years of age.

(h) To sell alcoholic beverages during hours not permitted by Tribal law.

(i) To sell alcoholic beverages to any person known or believed to be intoxicated.

Section 12. Enforcement

(a) Criminal Penalties. A violation of this Ordinance by any person subject to the criminal jurisdiction of the Tribe is a misdemeanor and may be prosecuted by the Tribe pursuant to Title 18 of the Tribal Code.

(b) Civil fines. The Tribe may bring a civil action in the Tribal Court against any person or entity for violation of this Ordinance or the terms of a License issued under this Ordinance, and a person found to have violated this Ordinance or the terms of a License issued under the Ordinance may be subject to a fine of not to exceed $5,000 per violation.

(c) Injunctive relief. The Tribe may bring a civil action in the Tribal Court against any person or entity to enjoin a violation of this Ordinance.

(d) Contraband. Alcoholic beverages confiscated from any person found in violation of this Ordinance are declared to be contraband. Where a person is found to have violated this Ordinance, all alcoholic beverages in such person’s possession shall be contraband. Any tribal agent, employee, or officer who is authorized by the Council to enforce this Ordinance shall have the authority to, and shall, seize all contraband. Any officer seizing contraband shall preserve the contraband in accordance with applicable Tribal and State law. Upon being found in violation of this Ordinance by the Tribal Court, the party shall forfeit all right, title and interest in the items seized which shall become the property of the Tribe.

(e) Notice of violation.

(1) The Council may appoint a law enforcement officer or other person as Alcoholic Beverage Control Agent (“Agent”) for the purpose of investigating, reporting and seeking corrective action with respect to violations of this Ordinance and Licenses under this Ordinance. Where it appears, based on an investigation done by the Agent, that a violation has occurred, but may be cured by having the licensee take corrective action, the Agent may issue a written Notice of Violation to the licensee describing the violation and, as appropriate, describing the corrective action to be taken. A copy of the Notice of Violation shall also be provided to the Council.

(2) The appropriate corrective action will depend on the specific facts and circumstances of the violation as well as any history of prior violations with regard to the licensee. Corrective action may include, but will not necessarily be limited to, requirements for additional management or employee training, the improvement of internal policies and procedures, and the taking of appropriate personnel action with regard to negligence or misconduct by an employee of the licensee. The Notice of Violation will also require the licensee to submit a written report to the Agent, with a copy to the Council, on the corrective action taken and shall set a deadline by which this is to occur.

(3) If the licensee disputes the findings contained in the Notice of Violation or the directive on corrective action, the licensee shall submit to the Agent, within five business days of receipt of the Notice, a written statement of the basis for its disagreement and any evidence in support of its position. A copy shall also be provided to the Council. The Agent will then review the licensee’s response, conduct such additional investigation as the Agent deems appropriate, and then submit to the licensee a written notice that either reconfirms, modifies or withdraws the original Notice of Violation.

(4) If the licensee continues to dispute the findings contained in the Notice of Violation or the directive for corrective action, the licensee may appeal that Notice by submitting to the Agent and the Council, within 5 business days from receipt of the Agent’s final decision, a written request for a hearing before the Council. The Council shall send written notices of the hearing to the licensee and the Agent, on the time and place of the hearing. A decision by the Council on an appeal from a Notice of Violation shall be final.

(f) Suspension or revocation of License.

(1) Any License issued under this Ordinance may be suspended or revoked by the Council for violation of any of the provisions of this Ordinance, or of the Tribal License. The Council may consider License suspensions or revocation based on information provided by the Alcoholic Beverage Control Agent, or a member of the public. A Notice of Violation is not required prior to Council consideration of suspension or revocation of a License.

(2) A License shall not be suspended or revoked except following a hearing before the Council after 10 days notice to the licensee. The notice will be delivered in person or by certified mail with the Council retaining proof of service. The notice will set out the rights of the alleged violator, including but not limited to representation by an attorney to represent the alleged violator, the right to speak and to present witnesses and to cross-examine any witnesses against them.

(3) The Council shall grant all persons in any hearing regarding a License suspension or revocation all the rights and due process granted by the Indian Civil Rights Act, 25 U.S.C. 1302, et seq. At the hearing, the grounds for the alleged violation shall be presented by the Agent, or such other person as may be designated for such purpose by the Council. Upon hearing the evidence presented and finding that a breach of this Ordinance or the terms and conditions of any License has occurred, the Council shall have the authority to impose one or more of the following sanctions:

(i) Issue a written reprimand for a minor violation;

(ii) Impose conditions on the License or require that the licensee take corrective action, including, but not limited to, requirements for additional management or employee training, improvement of internal policies and procedures, the taking of appropriate personnel action with regard to negligence or misconduct by an employee of the licensee;

(iii) Impose a civil fine of not to exceed $5,000 per violation;

(iv) Suspend the license for a specified period of time; or

(v) Revoke the license.

The decision of the Council shall be final.

Section 13. License Not a Property Right

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

Section 14. Assignment or Transfer

No tribal License issued under this Ordinance shall be assigned or transferred without the written approval of the Council expressed by formal resolution and upon prior satisfaction of the conditions required for a License as set out in Sections 8 and 9.

Section 15. Severability

If a court of competent jurisdiction invalidates any part of this Ordinance, a valid part that is severable from the invalid part shall remain in effect. If a part of this Ordinance is invalid in one or more of its applications, that part shall remain in effect in all valid applications that are severable from the invalid applications.

Section 16. Repealer

All prior Tribal ordinances regulating alcoholic beverages within the Indian country under the jurisdiction of the Tribe, including the Ordinance approved by the Council pursuant to Resolution 5–1992–1, are hereby repealed, upon the effective date of this Ordinance.

Section 17. Sovereign Immunity

Notwithstanding any other provision of law, nothing contained in this Ordinance in any way limits, alters, restricts, or waives the Tribe’s sovereign immunity.

Section 18. Effective Date

This Ordinance shall be effective upon its certification by the Secretary of the Interior.
and its publication 30 days after publication in the Federal Register.

BILLING CODE 4310–4J–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Evidence

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Evidence.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Evidence will hold a one-day meeting. The meeting will be open to public observation but not participation.

DATES: October 12, 2010.

TIME: 8:30 a.m. to 5 p.m.

ADDRESS: The Inn at Rancho Santa Fe, 5951 Línea Del Cielo, Rancho Santa Fe, CA 92091.


Dated: June 3, 2010.

John K. Rabiej,
Chief, Rules Committee Support Office.

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Appellate Procedure

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Appellate Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Appellate Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATE: October 7–8, 2010.

TIME: 8:30 a.m. to 5 p.m.

ADDRESS: The Langham Hotel, 250 Franklin Street, Boston, MA 02110.


Dated: June 3, 2010.

John K. Rabiej,
Chief, Rules Committee Support Office.

BILLING CODE 4310–4J–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Bankruptcy Procedure

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Bankruptcy Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Bankruptcy Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: September 30–October 1, 2010.

TIME: 8:30 a.m. to 5 p.m.

ADDRESS: The Bishop’s Lodge Resort & Spa, 1297 Bishop’s Lodge Road, Santa Fe, NM 87506.


Dated: June 3, 2010.

John K. Rabiej,
Chief, Rules Committee Support Office.

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Civil Procedure

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Civil Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Civil Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.


TIME: 8:30 a.m. to 5 p.m.


Dated: June 3, 2010.

John K. Rabiej,
Chief, Rules Committee Support Office.

BILLING CODE 2210–55–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Finance Committee Amended Notice

CHANGES TO THE MEETING DATE AND TIME: The Legal Services Corporation (LSC) is announcing an amendment to the notice of the joint meeting of the Board of Directors’ Audit and Operations & Regulations Committees (Joint Committees). The meeting, originally noticed to be convened at 1 p.m., on June 9, 2010, will be announced in the Federal Register dated June 7, 2010, Volume 75. The amendment is being made to reflect changes to the meeting date and time. There are no other changes.

AMENDED DATE AND TIME: The Joint Committees will meet June 15, 2010 commencing at 10:30 a.m., Eastern Time.