

SISSETON-WAHPETON SIOUX TRIBE

CHAPTER 35

LIQUOR CONTROL LAW

PART I - ALCOHOLIC BEVERAGES

S.W.S.T. CODE

Amendment

New Adoption

Judicial Approved

4-01-80

Council Adopted

4-01-80

- 35-01-01 **DEFINITION OF TERMS**
Terms used in this Ordinance, unless the context otherwise plainly requires, shall mean as follows:
- 35-01-02 Alcoholic Beverages - shall mean any intoxicating liquor, low point beer, or any wine, as defined under the provisions of this Ordinance.
- 35-01-03 Application - shall mean a formal written request for the issuance of a license supported by a verified statement of facts.
- 35-01-04 Bulk Container - shall mean any package, or any container within which container are one or more packages.
- 35-01-05 Distillery, Winery, and Brewery - shall mean not only the premises wherein alcohol is distilled; or rectified wine is fermented or beer is brewed, but in addition, a person owning, representing, or in charge of such premises and the operations conducted thereon, including the blending and bottling or other handling and preparation of intoxicating liquor or beer in any form.
- 35-01-06 Foreign Corporation - shall mean any corporation not incorporated under the laws of the Sisseton-Wahpeton Sioux Tribe.
- 35-01-07 High Point Beer - shall mean any beer having an alcoholic content in excess of three and two tenths per centum (3.2%) of weight.
- 35-01-08 Immediate Family - shall mean and include as defined under both the Anglo-American and Dakota system of jurisprudence, but is not limited to, the following relationships: grandparents, parents, spouses, sons, daughters, grandchildren, fathers-in-laws, mothers-in-laws sisters-in-laws, aunts, uncles, and cousins, in additions to all other lineal and collateral relatives whether in the whole or half blood, or adopted.
- 35-01-09 Tribal District or District - shall mean any recognized Indian District as established by the Constitution, By-laws, or Ordinances of the Sisseton-Wahpeton Sioux Tribe.

*Amended w/ Chapter 67 by Resolution
SWST-95-162 on 10/05/95*

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- 35-01-10 Intoxicating Liquor - shall mean any liquid either commonly used, or reasonably adapted to use, for beverages purposes, containing in excess of three and two-tenths per centum (3.2%) of alcohol by weight. This shall include any type of wine, regardless of alcohol content.

- 35-01-11 Legal Age - shall mean the age requirements as defined in Part VI.

- 35-01-12 Liquor Store - shall mean any store, established by the department, any Indian District, or Tribal member, for the sale of alcoholic beverages.

- 35-01-13 Low-Point Beer - shall mean any liquid either commonly used, or reasonably adapted to use, for beverages purposes, and which is produced wholly or in part from brewing of any grain or grains, or malt substitute, and which contains any alcohol whatsoever but no more than three and two-tenths per centum (3.2%) of alcohol by weight.

- 35-01-14 On-Sale Dealer - shall mean the Sisseton-Wahpeton Sioux Tribe, any Indian District or Tribal member that sells, or keeps for sale any alcoholic beverages authorized under this Ordinance for consumption on the premises where sold.

- 35-01-15 On-Sale - shall mean the sale of any alcohol beverage, for consumption only upon the premises where sold.

- 35-01-16 Off-Sale - shall mean the sale of any alcoholic beverages, for consumption off the premises where sold.

- 35-01-17 Package - shall mean the bottle or immediate container of any alcoholic beverage.

- 35-01-18 Package Dealer - shall mean the Sisseton-Wahpeton Sioux Tribe, any Indian District, or Tribal member as distinguished from a distiller, manufacturer, wholesaler, that sells, or keeps for sale, any alcoholic beverage authorized under this Ordinance for consumption off the premises where sold.

- 35-01-19 Public Place - shall mean any place, building, or conveyance to which the public has or is permitted access.

- 35-01-20 Retailer - shall mean the Sisseton-Wahpeton Sioux Tribe, any Indian District, or Tribal member that sells alcoholic beverages authorized under this Ordinance for other than resale.

- 35-01-21 Sacramental Wine - shall mean wines for sacramental purposes only and used by ordained rabbis, priests, ministers, or pastors, or any church or established religious organization.

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35-01-22 Sale - shall mean the transfer of bottled, or canned liquor for a consideration of currency exchange and of title to any alcoholic beverage.

35-01-23 Stamp - shall mean the various stamps required by this Ordinance to be affixed to the package or bulk, container, as the case may be, to evidence payment of the tax prescribed by this Ordinance.

35-01-24 Treasurer - shall mean the duly elected and actual Treasurer of the Sisseton-Wahpeton Sioux Tribe.

35-01-25 Council - shall mean the Tribal Council of the Sisseton-Wahpeton Sioux Tribe.

35-01-26 Vendor - shall be defined by Part I, Section 35-01-18 and, the case of an Indian District or Tribal member, a vendor shall mean any person employed and under the direct supervision of such District or Tribal member of conduct and manage District or Tribal member's liquor stores.

35-01-27 Wine - shall mean any beverage containing alcohol obtained by the fermentation of the natural sugar contents of fruits or other agricultural products, and containing not more than seventeen percent (17%) of alcohol by weight, including sweet wines, fortified with wine spirits, such as port, sherry, muscatel, and angelica.

35-01-28 The terms the provisions of this Ordinance, as provided in this Ordinance, or similar terms shall include all rules and regulations of the Department Adopted to aid in the administration of enforcement of this Ordinance.

35-02-01 PUBLIC POLICY DECLARED

This Ordinance shall be cited as the Sisseton-Wahpeton Sioux Tribal Liquor Ordinance and under the inherent sovereignty of the Sisseton-Wahpeton Sioux Tribe, shall be deemed as exercise on the Tribe's power, for the protection of the welfare, health, peace, morals, and safety of the people of the Tribe, and all its provisions shall be liberally construed for the accomplishment of that purpose, and it is declared to be public policy that the traffic in alcoholic beverages, if it affects the public interests of the people should be regulated to the extent of prohibiting all traffic or liquor, except as provided in this Ordinance.

35-03-01 GENERAL PROHIBITION

It shall be unlawful to manufacture for sale, sell, offer, or keep for sale, possess or transport intoxicating liquor or low-point beer except upon the terms, conditions, limitations, and restrictions specified in this Ordinance.

35-04-01 DIRECTOR APPOINTED

The Sisseton-Wahpeton Sioux Tribal Council shall hire under contract a Director of Liquor Control, (hereinafter referred to as Director) who, in no event, shall be a member of the Council, nor shall such a person be appointed if he or a member of his or her immediate family is a member of the Sisseton-Wahpeton Sioux Tribal governing body or has an interest directly or indirectly in the production, transportation, or sale of intoxicating liquor or low-point beer, or in any building or property in any way used in connection with any such business. Such Director's original contract shall be for a duration of one (1) year, and may be renewed on a yearly basis thereafter.

35-04-02 The Director's salary shall be in such amount as may be determined by the Sisseton-Wahpeton Sioux Tribal Council. The Director shall be qualified, in a managerial ability or in experience to perform his duties; shall post a bond in an amount determined by the Sisseton-Wahpeton Sioux Tribal Council to ensure proper discharge of his duties; and shall act in the name of, and serve at the pleasure of, the Sisseton-Wahpeton Sioux Tribal Council.

35-04-03 The Tax Director shall also be the Liquor Control Director.

35-05-01 REMOVAL

The Director shall be removed for cause and such removal shall not be in lieu of any other punishment that may be prescribed by the laws of the Tribe or the United States. The Director so removed shall be entitled to an opportunity to be heard before the Sisseton-Wahpeton Sioux Tribal Council before removal.

35-06-01 TRIBAL CONTROL OF IMPORTATION OF LIQUOR

The Council shall have the sole and exclusive right of authorizing importation into the Reservation, of all forms of intoxicating liquor and low-point beer, except as otherwise provided in this Ordinance, and no person or organization shall so import any such intoxicating liquor or low-point beer into the Reservation unless authorized by the Council. No licensed wholesaler or distiller shall sell any intoxicating liquor or low-point beer within the Reservation to any person or organization unless authorized by the Council and except as otherwise provided in this Ordinance. It is the intent of this section to retain in the Council exclusive control within the Lake Traverse Reservation both as authorizer and controller of all alcoholic beverages sold by licensed wholesaler or distillers within the State of South Dakota or other States or imported therein, except low-point beer and except as otherwise provided in this Ordinance.

- 35-07-01 INDIVIDUAL TO HOLD LICENSE**
An individual Tribal Member may hold a liquor license under the provisions of this Ordinance. It is the intent of this Ordinance to allow the Sisseton-Wahpeton Sioux Tribe, Indian Districts or Tribal Members to hold liquor licenses, in such manner as provided in this Ordinance.
- 35-08-01 TRIBAL LIQUOR STORE**
Subject to the provisions of Part II, the Council may establish and maintain anywhere on this Reservation that the Council may deem advisable, a Tribal Liquor store or stores for storage and sale of alcoholic beverages in accordance with provisions of this Ordinance. The Council may, from time to time, fix the prices of alcohol, liquor, and low-point beer to be sold.
- 35-09-01 VENDOR - CASH SALES**
In the conduct and management of Tribal Liquor stores, the Council is empowered to employ a person who shall be under the direct supervision of the Director, who shall be known as a "vendor" and who shall observe all provisions of this Ordinance and rules and regulations that may be prescribed by the Council under this Ordinance. No vendor shall sell alcoholic beverages to any person or any organization except for cash.
- 35-10-01 STORAGE OF BEVERAGES**
The Sisseton-Wahpeton Sioux Tribe shall not keep or store any alcoholic beverages at any place within the Lake Traverse Reservation other than on the premises where they are authorized to operate and except as otherwise provided by this Ordinance.
- 35-11-01 PAYMENT OF FEE**
There shall be a filing fee on application for any licenses under this Ordinance, as established by the Council.
- 35-12-01 HEARING AND NOTICE**
No license for a Class A, B, C, D, E, or F license, as the same are defined and classified under the provisions of this Ordinance shall be granted to an applicant for any such license, except after public hearing, upon notice, as provided hereinafter in this Part (I).
- 35-13-01 REQUEST OF NOTICE OF HEARING**
If any Tribal member of any District as recognized by the Constitution or By-laws or Ordinances of the Sisseton-Wahpeton Sioux Tribe or District, shall file with the Council, a written request that he or she be notified of the time and place of hearing upon a specified application

or applications for licenses for the on or off sale at retail of alcoholic beverages, the Director shall give notice to such person by certified mail and within a sufficient length of time prior to the hearing upon such application as to allow such person a reasonable opportunity to be present. For the purpose of this Section, the certified letter must be deposited with the U.S. Post Office at least five (5) days before the scheduled date of the hearing.

35-14-01 TIME AND PLACE FOR HEARING

The Council shall fix a time and place for hearing upon all such applications which may come before the Council and the Director shall publish notice once in the official newspaper of the Tribe which notice shall be headed "Notice of the Hearing Upon Application for Sale of Alcoholic Beverages" and shall state the time and place when and where such applications will be considered by the Council and that persons interested in the approval or rejection of any such application may appear and be heard, which notice shall be published at least one week prior to such hearing. At the time and place so fixed, the Council shall consider such applications and all objections thereto, if any, prior to final decision thereon.

35-14-02 No license granted pursuant to the provisions of this Ordinance shall be transferred to another District or person or organization. If a transfer to a new location is requested by a licensee, the licensee must make application showing all the relevant facts as to such new application, which application shall take the same course and be acted upon as if an original application. No fee shall be required of a licensee who desires to transfer to a new location; however, such licensee must pay the actual costs involved in the Notification of Hearing as published in the official newspaper.

35-15-01 SALE OF STOCK ON TERMINATION

Any licensee authorized to deal in alcoholic beverages upon termination of its license may at any time within twenty (20) days thereafter sell the whole or any part of the alcoholic beverages included in its stock in trade at the time of termination, to any licensed wholesaler approved under the provisions of this Ordinance to deal in alcoholic beverages as a wholesaler and the licensee to the Council. At the discretion of the Council, an additional twenty (20) days extension to sell may be granted to the licensee by the Tribal Council.

35-16-01 COMPLAINTS AUTHORIZED

Any person may file with the council a duly notarized complaint as to any violation to the provisions of this Ordinance and immediately upon receipt thereof, the Council shall cause the Director to make a thorough investigation and, if there is evidence to support the charge made in such complaint, the Council must cause revocation of the license in question and/or take other appropriate action.

35-17-01 REVOCATION PROCEEDINGS

The Council shall on due notice to such licensee, conduct a hearing and on the basis thereof determine whether such license should be revoked.

35-18-01 SUBPOENA BY COUNCIL

For the purposes of conducting the hearing as prescribed above, the Council shall have the power to subpoena witnesses and to administer oaths. Witnesses so subpoenaed shall be paid at the then prevailing witness rate for the Sisseton-Wahpeton Sioux Tribal Court, and said witness fee shall be paid from the Tribal Liquor Control Fund.

35-19-01 DISMISSAL OR ACCEPTANCE OF COMPLAINT

If the Council determines the license should not be revoked, it shall dismiss the complaint. If the council determines the license should be revoked, and revokes such license, it must make, in writing, finding of facts as to every such violation alleged in such complaint before it revokes such license; and must, by the time of the next Tribal Council meeting, make a report available consisting of a transcript of the proceedings had, and all findings as to every such violation alleged in such complaint.

35-20-01 SUSPENSION IN LIEU OF REVOCATION

The Council may, if the facts warrant, mitigate the revocation to a suspension upon proceedings upon verified complaint, the Council, if satisfied that the nature of such violation and the circumstances thereof were such that a suspension of the license would be adequate, it may suspend the license for a period not exceeding sixty (60) days which suspension shall become effective twenty-four (24) hours after service of notice thereof upon the licensee. During the period of such suspension, such licensee shall exercise no right or privileges whatsoever under the license.

35-21-01 PUBLIC HEARING REQUIRED

All hearings under the provisions of this Ordinance shall be public, and the place of hearing shall be specifically designated in the Notice of Hearing. It shall be permissible, when due notice has been given, for the Council to hold hearings in the District Hall of the District wherein the license is operative.

35-22-01 In any case where the Council approves a revocation of a license it shall forthwith make an order for such revocation and upon service of notice thereof on the licensee, all of such licensee's rights under such license shall terminate three (3) days after such notice, except in the event of a stay of appeal.

35-23-01 **WAITING PERIOD FOR NEW LICENSE**
Any licensee, except the Sisseton-Wahpeton Sioux Tribe, whose license is revoked shall not, for a period of two (2) years thereafter be granted any license under the provisions of this Ordinance.

35-24-01 **APPEAL TO TRIBAL COURT**
Any licensee whose license is revoked by the Council, regardless of how the proceedings were instituted, may appeal from such revocation to the Sisseton-Wahpeton Sioux Tribal Court, within five (5) days after notice to the licensee of such revocation, and such appeal shall operate to stay all proceedings for a period of fifteen (15) days thereafter and for such an additional period of time that the Sisseton-Wahpeton Sioux Tribal Court may in its discretion extend. Under no circumstances may the Tribal Court extend the stay for a period of more than twenty-five (25) days including the original fifteen (15) days stay period. The Council shall forthwith, upon appeal being made certify to the Tribal Court the complete record in the proceedings and the Court shall thereupon fix a time and place for the hearing. Due notice of such hearing shall be given to all concerned parties involved in the appeal.

35-24-02 For the purpose of appeal under this Ordinance, the appeal shall be heard by the duly qualified and selected Judge of the Sisseton-Wahpeton Sioux Tribal Court.

35-25-01 **BOOTLEGGING**
Any person whom by himself, or through another acting for him, shall keep or carry on his person, or in a vehicle, or leave in a place for another to secure, any alcoholic liquor or low-point beer with intent to sell or dispense of such liquor or low-point beer or otherwise, in violation of law; or who shall, within this Reservation in any manner directly or indirectly, solicit, take, or accept any order for the purchase, sale, shipment, or delivery of such alcoholic liquor or low-point beer in violation of law, or aid in the delivery and distribution of any alcoholic liquor or low-point beer so ordered or shipped, or who shall in any manner procure for, sell, or give any alcoholic liquor or low-point beer to any person under legal age for any purpose except as authorized and permitted in this Ordinance shall be guilty of bootlegging and upon conviction thereof shall be subject to a fine not

less than three hundred dollars (\$300.00) nor more than five hundred dollars (\$500.00), and to a jail sentence of not less than three (3) months, nor more than six (6) months; or both such fine and jail sentence plus costs.

35-26-01 GENERAL PENALTIES

Any person violating any provision of this Ordinance for which a specific penalty is not provided, shall be punished by a fine of not less than one hundred and fifty dollars (\$150.00), nor more than five hundred dollars (\$500.00), or by imprisonment in the Tribal Jail for not more than six (6) months; or by both such fine and imprisonment, plus cost.

PART II - LOCAL OPTION AND COMMUNITY INVOLVEMENT

35-27-01 LOCAL REGULATIONS

Indian Districts as recognized by the Revised Constitution and By-laws of the Sisseton-Wahpeton Sioux Tribe, who shall hold an election as provided herein and who shall authorize the retail sale of low-point beer within their jurisdiction shall have the right and power to make regulations, not inconsistent with the provisions of this Ordinance, concerning the conduct of retail traffic in low-point beer within their respective jurisdictions. This includes the regulation of the days of the week and the hours within which low-point beer may be sold; PROVIDED, HOWEVER, that nothing in this part shall operate to restrict or apply to the Sisseton-Wahpeton Sioux Tribe when it becomes the licensee anywhere within the Lake Traverse Reservation.

35-27-02 The Council alone shall authorize and issue licenses for the retail sale of alcoholic beverages other than low-point beer in accordance with provisions of this Ordinance.

35-28-01 ELECTIONS

No part of this Part (II) shall authorize the granting of a license by the Council until such time as such Indian District involved conducts a district election for the purpose of approving the retail sale of low-point beer in that community. For the purpose of this Ordinance, the Council is prohibited from approving an application for a license by any District which has not affirmatively voted, by a majority of those voting, for the approval of the retail sale of low-point beer in that particular District.

35-28-02 The local election to allow licensing of retail sale within the Indian District of low-point beer shall be conducted by the duly elected district officials upon proper notice having been given in advance of at least fifteen (15) days duration. The election shall be held among all the duly

qualified voters of the District as of the date of the election, and the rules and regulations pertaining to Tribal elections shall apply to such election. Upon the completion of a District election, the ballots shall be transmitted forthwith to the Tribal Council, along with the certification of the election officials of the District as to the outcome of the election. Any charges as to irregularities in the election shall be heard by the Tribal Council and the Council's decision shall be final.

35-39-01 COMMUNITY LICENSES RESTRICTED

All Districts under the provisions of this Part (II), who approve in an election, the retail sale of low-point beer within their jurisdiction, shall be limited to only Class E and Class F Licenses, as provided in Part V of this Ordinance. When a District elects to sell low-point beer, the Department shall not establish and maintain any store for the sale of low-point beer in such community that will be in competition with such District's store or stores.

35-30-01 WHEN COMMUNITY OPTION IS LOST

Any District that does not authorize and conduct an election under this Part within twelve (12) months from the approval of this amendatory Ordinance by the Sisseton-Wahpeton Sioux Tribal Council shall be deemed to have lost their right to sell and control low-point beer within their jurisdiction and all such right lost shall revert exclusively to the Council.

35-31-01 FORM OF QUESTION OF ELECTION

The form of submitting the question of whether intoxicating liquor is to be sold within the District shall be:

"Shall a license to sell low-point beer be permitted for this District?"

35-32-01 DISTANCE FROM SCHOOLS AND CHURCHES

No license may be issued under this Part to any District who will sell low-point beer within four hundred (400) feet of any school which is open during the sale hours, or which will operate within four hundred (400) feet of any existing church of any religion.

35-33-01 PURCHASE INVOICES

Copies of each purchase invoice for low-point beer supplies delivered to and signed by any licensee or its duly authorized agent under this Part shall be filed monthly with the Council and the Treasurer of the Sisseton-Wahpeton Sioux Tribe.

35-34-01 RESTRICTION ON DEPARTMENT EXTENDED TO COMMUNITIES
Unless specifically indicated, all applicable provisions of this Ordinance relating to the purchase, transportation, storage, handling, serving, and sale of alcoholic beverages by the Department shall also apply to any Indian District that sells low-point this Part.

PART III - LIQUOR LICENSES AND SALES

35-35-01 POWER TO LICENSE AND TAX
The power to establish licenses and levy taxes under the provisions of this Ordinance is vested exclusively with the Sisseton-Wahpeton Sioux Tribal Council.

35-36-01 CLASSES OF LICENSES
Classes of Licenses under this Part, with the fee of each class, shall be as follows:

1. Class A Package Dealers
2. Class B On-Sale Dealers
3. Class C Solicitors
4. Class D Transportation Companies

35-36-02 Fees shall be established by the Sisseton-Wahpeton Sioux Tribal Council.

35-37-01 ONE LICENSE PER APPLICATION
No more than one Class C or Class D license under this part shall issued to any one licensee, except by approval of the Sisseton-Wahpeton Sioux Tribal Council. Indian Districts shall qualify for any licenses under this Part. Nothing in this Section shall be construed to apply to the Sisseton-Wahpeton Sioux Tribe when it is a licensee.

35-38-01 DOMESTICATION REQUIREMENT FOR CORPORATE LICENSES
Any corporate Class C or Class D licensee under this Part must be a corporation organized under the laws of the Sisseton-Wahpeton Sioux Tribe, provided that if the applicant is a foreign corporation, the applicant shall be deemed eligible if, prior to the application it has complied with all of the laws of the United States and the Sisseton-Wahpeton Sioux Tribe concerning doing business within the Lake Traverse Reservation. Individuals, Partnerships, and other forms of associations shall be eligible to obtain Class C and Class D Licenses this Part.

35-39-01 OWNERSHIP OF BUSINESS

Any Class A or Class B licensee under this Ordinance must be sole owner of the business to be operated under this license.

35-40-01 DISCRETION OF COUNCIL

Applications for licenses under this Part shall be submitted to the Council as specified in Part I of this Ordinance, and the Council shall have absolute discretion to approve or disapprove the same in accordance with the provisions of this Ordinance.

35-41-01 CANCELLATION OF SURETY BOND

Any surety may cancel any bond required under this Ordinance as to future liability by giving thirty (30) days notice to the Council. Unless the licensee gives other sufficient surety by the end of the thirty (30) day period, the license shall be revoked automatically at the end of thirty (30) days.

35-42-01 SURETY BOND

Every application for a license under this Ordinance, unless exempted by the Tribal Council, must be accompanied by a bond which shall become operative and effective upon the issuing of a license unless the licensee already has a continuing bond in force. The bond shall be in the amount of ten thousand dollars (\$10,000.00) and must be on a form approved by the Council and it shall be conditioned that the licensee will faithfully obey and abide by all the provisions of this Ordinance and all existing laws relating to the conduct of its business and will promptly pay to the Sisseton-Wahpeton Sioux Tribe, when due, all taxes and license fees payable by it under the provisions of this Ordinance and also costs and cost penalty assessed against it in any judgement for violation of the terms of this Ordinance.

35-42-02 All bonds required by this Ordinance shall be with a corporate surety as surety, or shall be by cash deposit. If said surety is placed by cash, it shall be kept in a separate escrow account within a legally chartered bank.

35-43-01 ACTION OF BOND FOR INJURY

Any person injured by reason of the failure of any licensee to faithfully obey and abide by all the provisions of this Ordinance shall have a direct right of acting upon the bond in Tribal Court for the purpose of recovering the damage sustained by such person, which action may be prosecuted in the name of the injured party.

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Amendment

New Adoption

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08-08-84

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35-44-01 AGREEMENT BY LICENSEE TO GRANT ACCESS

Every application for a license under this Ordinance must include an agreement by the applicant that his premises, for the purpose of search and seizure laws of the Sisseton-Wahpeton Sioux Tribe shall be considered public premises, and that such premises and all building, safes, cabinets, lockers, and store rooms thereon will, at all times on demand of the Council or duly appointed Tribal or Federal Policeman, be open to inspection, and that all its books and records dealing with the sale or ownership of alcoholic beverages shall be open to said person or persons for such inspection, and that the application and the license issued thereon shall constitute a contract between the licensee and the Sisseton-Wahpeton Sioux Tribe entitling the Department, for the purpose of enforcing the provisions of this Ordinance, to inspect the premises and books at any time.

35-45-01 DURATION OF LICENSES

The period covered by licenses under this Ordinance shall be from twelve o'clock (12:00) midnight on the twenty-first (21st) day of December to twelve o'clock (12:00) midnight on the thirty-first (31st) day of the following December; except that the license shall be valid for an additional three (3) days provided that proper application for a new license is in the possession of the Council prior to midnight on the thirty-first (31st) day of December, when the license for adoption of such period, unless otherwise provided by this Ordinance.

35-46-01 SACRAMENTAL WINES EXEMPT

The provisions of this Ordinance, except as otherwise provided, shall not apply to the purchase and sale of sacramental wines. Ordained rabbis, priests, ministers, or pastors of any church or established religious organizations within the Lake Traverse Indian Reservation may buy sacramental wines from wholesalers approved by the Council in such quantities as necessary for their religious purposes only.

35-47-01 REFILLING PROHIBITED

No licensee shall buy or sell any package which has previously contained alcoholic beverages sold under the provisions of this Ordinance, or refill any such package.

35-48-01 DELIVERIES

No licensee under this Ordinance shall make any delivery of alcoholic beverages outside the premises described in the license.

35-49-01 PROHIBITED SALES

No vendor shall sell any intoxicating liquor:

1. To any person under the age of twenty-one (21) years of age.
2. To any person who is intoxicated at the time, or who is known to the vendor to be a habitual drunkard:
3. To any person to whom the vendor has been requested, in writing, not to make such sale, where such request is by the Executive Committee, any police or peace officer, to the husband or wife of the person; and
4. Any mentally ill or mentally retarded person.

35-49-02 Any vendor that violates any the provisions of this Section shall be guilty of an offense and punishable by a fine of not less that two hundred dollars (\$200.00), nor more than five hundred dollars (\$500.00), or by imprisonment in the Tribal Jail for a term not to exceed ninety (90) days, or by both such fine and imprisonment, with costs.

35-50-01 MINORS BARRED

No vendor shall permit any person under legal age on the premises where the business under the license is authorized, unless accompanied by an adult who is the legal guardian or parent of said minor.

35-51-01 AFTER HOUR SALES

No Class A vendor shall sell, serve or allow to be consumed on the premises covered by the license, alcoholic beverages between the hours of twelve o'clock p.m. and seven o'clock a.m. of the following day, or on Sunday, Memorial Day or Christmas Day. No Class B vendor shall sell, serve or allow to be consumed on the premises covered by the license, alcoholic beverages other than between the hours of two o'clock a.m. and seven o'clock a.m. or on Sunday after two o'clock a.m., or on Memorial Day after one o'clock a.m., or at any time on Christmas Day.

35-52-01 PROHIBITED ACTIVITY

No licensee shall allow any gambling devices on its premises unless authorized by the Sisseton-Wahpeton Sioux Tribal Council, or permit any lewd or indecent entertainment of the premises.

35-53-01 PROHIBITED SALES

No licensee of an On-sale establishment shall allow to be sold any alcoholic beverages in package, whether sealed or unsealed, or whether full or partially full.

35-54-01 UNSEALED PACKAGES IN PUBLIC

No person shall have an unsealed package containing intoxicating liquor in his possession in any public place, other than in duly licensed facilities authorizing such broken seal.

35-55-01 PROHIBITED USE

No person shall be permitted either to:

1. Consume any intoxicating liquor:
2. Mix or blend any intoxicating liquor or alcohol with any other beverage is an alcoholic beverage, in any public place other than upon the premises of a license On-sale dealer as defined and authorized by the Ordinance; and any vendor who knowingly permits such violation to occur upon the premises shall be equally responsible with the person performing the act for the violation of the terms thereof.

PART IV - SALES TAX

35-56-01 SALES TAX LEVIED

There shall be a sales tax imposed on any licensee licensed under the provisions of this Ordinance, in accordance with rates established by the Council.

PART V - LOW-POINT BEER

35-57-01 PART TO RELATE TO LOW-POINT BEER

The provisions of this part, unless context otherwise clearly requires, shall be construed to relate only to low-point beer.

35-58-01 CLASS OF LICENSE

Classes of Licenses under this Part, with a fee for each Class, shall be as follows:

1. Package Dealer - Class E; and
2. Retailers, being both package dealers and On-sale dealers Class F.

35-58-02 Fees shall be established by the Sisseton-Wahpeton Sioux Tribal Council.

35-59-01 SALES PROHIBITED

No licensee under this Part shall sell or give any low-point beer to any person who is less than twenty-one (21) years old, unless the laws of the State of South Dakota establish a lesser age for low-point beer, or to any person to whom the sale of other alcoholic beverages is prohibited under the provisions of this Ordinance, an option to sell low-point beer to persons less than twenty-one (21) is left open in case the recent federal law with respect to twenty-one (21) as drinking age does not apply to low-point beer. Violations of this Section shall form the basis for immediate revocation of a license.

35-60-01 EMPLOYMENT RESTRICTION

All persons less than twenty-one (21) year of age are prohibited from serving beer in the places of business licensed under this Part.

35-61-01 HOURS WHEN SALE AND CONSUMPTION PROHIBITED

No package dealer or retailer licensee under this Part shall sell, serve allow to be consumed on the premises covered by the license, any low-point beer between the hours of 1:00 o'clock a.m. and 7:00 o'clock a.m.. Whoever shall violate any of the provisions of this Section shall be guilty of an offense and punished by a fine of not less than one hundred dollars (\$100.00) nor more than three hundred and sixty dollars (\$360.00) or by imprisonment in the Tribal Jail for not less than ten (10) days or more than one hundred eight (180) days; or both such fine and imprisonment, with costs.

35-62-01 IMPORTATION RESTRICTED

Except as provided in this Ordinance, it shall be unlawful to transport any low-point beer into the Lake Traverse Reservation for the use or sale therein unless the same be for delivery to a licensee authorized to receive it.

PART VI - AGE REQUIREMENTS

35-63-01 FURNISHING BEVERAGE TO A CHILD

It shall be unlawful to sell or give any alcoholic beverage, to any person under the age of twenty-one (21) years or to sell or give any low-point beer to any person under the age of twenty-one years unless the laws of the State of South Dakota establish a lesser age for low-point beer. Any person who violates this Section shall be guilty of an offense and upon conviction there of shall be punishable by a fine of not less than one hundred dollars (\$100.00), or more than three hundred and sixty dollars (\$360.00), or by imprisonment in the Tribal Jail for not less than thirty (30) days, nor more than one hundred eighty (180) days; or by both such fine and imprisonment, with costs.

35-64-01 PURCHASE, POSSESSION BY MINOR

It shall be unlawful for any person under the age of twenty-one (21) years of age to purchase, attempt to purchase, or possess or consume intoxicating liquor, or to misrepresent his age for the purpose of purchasing or attempting to purchase such intoxicating liquor. Any person who violates any of the provisions of this Section shall be guilty of an offense and upon conviction thereof, shall be punished by fine of not less than fifty dollars (\$50.00), or more than three hundred and sixty dollars (\$360.00) or by imprisonment in the Tribal Jail for a period not less than thirty (30) days, nor more than one hundred and twenty (120) days, or by both such fine and imprisonment, with costs.

35-65-01 PURCHASE OF POSSESSION OF LOW-POINT BEER

It shall be unlawful for any person under the age of twenty-one (21) years to purchase, attempt to purchase, possess or consume low-point beer, or to misrepresent his age for the purchasing or attempting to purchase low-point beer. Any person who violates the provisions of this Section shall be guilty of an offense and upon conviction thereof, shall be punished by a fine of not less than fifty (\$50.00), nor more than three hundred and sixty dollars (\$360.00), or by imprisonment in the Tribal Jail for no less than thirty (30) days, nor more than one hundred and twenty (120) days; or both such fine and imprisonment; with costs.

35-66-01 EVIDENCE OF LEGAL AGE DEMANDED

Upon attempt to purchase any alcoholic beverages in any Tribal, District, or Indian Liquor Store by any person who appears to be the vendor to be under legal age, such vendor shall demand and, the prospective purchaser upon such demand, shall display satisfactory evidence that he/she is of legal age.

35-66-02 Any person under legal age who presents to any vendor falsified evidence as to his/her age shall be guilty of a misdemeanor and upon conviction thereof, shall be subject not to the penalties specified in Section 35-65-01 above.

PART VII - DISTRIBUTION OF PROFITS

35-67-01 DISTRIBUTION OF PROFITS

All profits from the sale of alcoholic beverages on the Lake Traverse Reservation by or through the Council shall be paid over to the General Treasury of the Sisseton-Wahpeton Sioux Tribe and be subject to distribution by the Tribal Council in accordance with its usual appropriation procedures for essential governmental and social services; provided, however, that the following Tribal programs shall have priority in funding in the percentages set out in this Section upon demonstration of need and past performances in the normal Tribal budgetary appropriation process:

1. To the Sisseton-Wahpeton Sioux Tribe's Alcohol Program in an amount of at least fifteen percent (15%) of the total tax received.
2. To the Sisseton-Wahpeton Sioux Tribal Elderly Program in an amount of fifteen percent (15%) of the total tax received.
3. To the Sisseton-Wahpeton Sioux Tribal Law and Order Program in an amount of at least fifteen percent (15%) of the total tax received.
4. To the Sisseton-Wahpeton Sioux Tribal Education Program in an amount of at least fifteen percent (15%) of the total tax received.
5. To other Tribal needs as designated by the Sisseton-Wahpeton Sioux Tribal Council.

S.W.S.T. CODE
 Amendment
 New Adoption
 Judicial Approved
08-08-84
 Council Adopted
08-08-84

PART VIII - REVISION

35-68-01 SEVERABILITY

If any Section of any part of this Ordinance of the application thereof to any party or class or to any circumstances, shall be held invalid for any cause whatsoever, the remainder of the part or Ordinance shall not be affected thereby; and shall remain in full force and effect as though no part thereof had been declared to be invalid.

35-69-01 ALL PRIOR ORDINANCES AND RESOLUTIONS REPEALED

All prior Ordinances and resolutions or provisions thereof that are repugnant or inconsistent to any provision of this Ordinance are hereby repealed.

35-70-01 AMENDMENT OR REPEAL OF ORDINANCE

This Ordinance may be amended or repealed only by three-fourths (3/4) vote of the Tribal Council in regular session.

35-71-01 ADJUDICATION

If any clause, sentence, paragraph, section, or part of this code shall, for any reason be adjudicated by any Court of competent jurisdiction, to be invalid or unconstitutional, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgement shall have been rendered.

S.W.S.T. CODE
 Amendment
 New Adoption
 Judicial Approved
02-24-88
 Council Adopted
03-01-88