



(4310-4J-P)

DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

Jackson Rancheria – Tribal Council Ordinance No. 2012-01 – Sale, Consumption & Possession of Alcoholic Beverages at the Jackson Rancheria

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes Jackson Rancheria's Tribal Council Ordinance No. 2012-01 – Sale, Consumption & Possession of Alcoholic Beverages at the Jackson Rancheria. The Ordinance regulates and controls the sale, consumption and possession of liquor within the Jackson Rancheria's Indian country. This Ordinance will increase the ability of the tribal government to control the distribution and possession of liquor within its Indian country and at the same time will provide an important source of revenue and strengthening of the tribal government and the delivery of tribal services.

DATES: *Effective Date:* This Act is effective as of [insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Sophia Torres, Tribal Government Specialist, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way – Room W-2820, Sacramento, CA 95825; Telephone (916) 978-6073; Fax (916) 978-6099; or De Springer, Office of Indian Services, 1849 C Street, N.W., MS/4513/MIB, Washington, DC 20240; Telephone (202) 513-7626; Fax (202) 208-5113.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953; Public Law 83-277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Jackson Rancheria Tribal Council adopted Ordinance No. 2012-01, by Tribal Council Resolution No. 2012-02, on January 15, 2012.

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 the Tribal Council duly adopted Jackson Rancheria’s Tribal Council Ordinance No. 2012-01 – Sale, Consumption & Possession of Alcoholic Beverages at the Jackson Rancheria on January 15, 2012.

Date: November 13, 2012

Kevin K. Washburn
Acting Assistant Secretary – Indian Affairs

The Jackson Rancheria’s Tribal Council Ordinance No. 2012-01 – Sale, Consumption & Possession of Alcoholic Beverages reads as follows:

Sale, Consumption & Possession of Alcoholic Beverages at the Jackson Rancheria

The Tribal Council of the Jackson Band of Miwuk Indians of the Jackson Rancheria, the governing body of the Jackson Band of Miwuk Indians of the Jackson Rancheria, hereby enacts this Ordinance to govern the sale, consumption, and possession of alcoholic beverages on Rancheria lands.

Preamble

1. Title 18, United States Code, Section 1161, provides Indian tribes with authority to enact ordinances governing the consumption, possession, and sale of alcoholic beverages on their Reservations, provided such ordinance is certified by the Secretary of the Interior, published in the Federal Register and such activities are in conformity with state law.

2. The Jackson Band of Miwuk Indians of the Jackson Rancheria is a federally recognized Indian tribe (hereinafter referred to as the “Tribe”) exercising sovereign authority over the lands of the Jackson Rancheria located within Amador County, California, and held in trust by the United States on behalf of the Tribe (hereinafter referred to as “Rancheria”) on which tribal members reside in private homes and the Tribe conducts various tribal businesses.

3. Pursuant to Article III Section 1 and Article VI of the Tribe's Constitution, the Tribal Council is the governing body of the Tribe with the power to enact ordinances to promote the general welfare and economic advancement of the Tribe and its members.

4. The Tribe is the owner and operator of the Jackson Rancheria Casino & Hotel which includes an outdoor entertainment area, an RV park with a recreation center, and a General Store (collectively referred to herein as “Tribal Business Enterprises”), which are all located on the Rancheria.

5. The Tribal Business Enterprises are an integral and indispensable part of the Tribe’s economy, providing income to the Tribe and training and employment to its members.

6. The Tribal Council has determined that it is in the Tribe’s best interest to offer for sale alcoholic beverages under limited conditions established by the Tribal Council and to update, consolidate, and replace two previous Tribal Council Ordinances governing the limited sale and consumption of alcoholic beverages.

7. It is the purpose of this ordinance to set out the terms and conditions under which the sale, consumption, and possession of alcoholic beverages may take place as provided for herein.

General Terms

1. The sale of alcohol at the Jackson Rancheria Casino & Hotel (including its outdoor entertainment area) for on-premises consumption only is hereby authorized. For purposes of this paragraph 1, “on-premises” is defined as the Jackson Rancheria Casino & Hotel and its outdoor entertainment area.

2. The sale of alcohol at the Tribe’s RV Park for on-premises consumption only is hereby authorized. For purposes of this paragraph 2, “on-premises” is defined as the Tribe’s RV Park which includes a recreation center.

3. The Jackson Rancheria General Store is hereby authorized for the off-sale of alcohol only. For purposes of this paragraph 3, “off-sale of alcohol” is defined as sale of alcohol for consumption off the premises of the General Store and within the following areas: (a) outside the boundaries of the Jackson Rancheria lands; and (b) within the Jackson Rancheria in areas with overnight accommodations, specifically the RV Park, the individual hotel rooms of the Jackson Rancheria Casino & Hotel, and private homes located on the Rancheria.

4. The sale of said alcoholic beverages authorized by this ordinance shall be limited to the time, place and manner restrictions enacted by the Tribal Council. No alcohol may be sold at any location on the Rancheria pursuant to this ordinance other than at the Tribal Business Enterprises.

5. The sale of said alcoholic beverages authorized by this ordinance shall be in conformity with all applicable laws of the State of California, and the sale of said beverages shall be subject to state sales tax, federal excise tax and any fees required by the Federal Bureau of

Alcohol, Tobacco & Firearms. This includes *but is not limited to* the following examples:

a. No person under the age of 21 years shall consume, acquire or have in his or her possession at the Tribal Business Enterprises any alcoholic beverage.

b. No person shall sell alcohol to any person under the age of 21 at the Tribal Business Enterprises.

c. No person shall sell alcohol to a person apparently under the influence of liquor.

6. All liquor sales at the Tribal Business Enterprises shall be on a cash only basis and no credit shall be extended to any person, organization or entity, except that this provision does not prevent the use of credit cards or debit credit cards issued by any financial institution.

7. In addition to the foregoing paragraphs pertaining to the sale and consumption of alcohol, the consumption and possession of alcoholic beverages where no sale is involved is hereby authorized only in areas within the Rancheria with overnight accommodations, specifically the RV Park, the individual hotel rooms of the Jackson Rancheria Casino & Hotel, and private homes located on the Rancheria, including possession while specifically en route to these areas. All such consumption and possession shall comply with all applicable tribal, federal and state laws and regulations. For purposes of this paragraph 7, “where no sale is involved” is defined as consumption or possession of alcohol where no money is requested or paid.

8. This ordinance updates, consolidates, and replaces Tribal Council Ordinance No. 99-04 enacted in 1999 to govern the limited sale of alcoholic beverages at the Tribe’s Conference Center and Tribal Council Ordinance No. 2008-01 enacted in 2008 to govern the limited sale of alcoholic beverages at the Tribe’s General Store. Therefore, said Ordinance No. 99-04 and Ordinance No. 2008-01 shall be repealed as of the Effective Date of this ordinance, as defined

below.

Posting

This ordinance shall be conspicuously posted at each Tribal Business Enterprise on the Jackson Rancheria where alcohol is sold pursuant to this ordinance at all times it is open to the public.

Enforcement

1. This ordinance may be enforced by the Tribal Council by implementation of monetary fines not to exceed \$500 and/or withdrawal of authorization to sell alcohol. Prior to any enforcement action, the Tribal Council shall provide the alleged offender of this ordinance with at least three (3) days notice of an opportunity to be heard during a specially-called Tribal Council meeting. The decision of the Tribal Council shall be final.

2. This ordinance also may be enforced by the Amador County Sheriff's Office at the request of the Tribal Council.

3. In the exercise of its powers and duties under this ordinance, the Tribal Council and its individual members shall not accept any gratuity or compensation from any liquor wholesaler, retailer, or distributor for the Jackson Rancheria, including all of its Tribal Business Enterprises.

Severability, Amendment, and Sovereign Immunity

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

2. This ordinance may only be amended by a majority vote of the Tribal Council.

3. Nothing in this ordinance in any way limits, alters, restricts or waives the Tribe's sovereign immunity from unconsented suit or action.

Effective Date

This ordinance shall become effective following its certification by the Secretary of the Interior and its publication in the Federal Register.

[FR Doc. 2012-28538 Filed 11/23/2012 at 8:45 am; Publication Date: 11/26/2012]