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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

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Mechoopda Indian Tribe of Chico Rancheria; Alcoholic Beverage Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Mechoopda Indian Tribe of Chico Rancheria's Alcoholic Beverage Ordinance #19 (Ordinance). The Ordinance regulates and controls the possession, sale, manufacture, and distribution of alcohol in conformity with the laws of the State of California.

DATES: This ordinance shall take effect [Insert date 30 days after publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mr. Harley Long, Tribal Government Officer, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Room W-2820, Sacramento, California 95825, telephone (916) 978-6000, fax: (916) 978-6099.

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 control ordinances for the purpose of regulating liquor transactions in Indian country. The Mechoopda Indian Tribe of Chico Rancheria duly adopted Alcoholic Beverage Ordinance #19 on October 6, 2018.

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 Mechoopda Indian Tribe of Chico Rancheria duly adopted Alcoholic Beverage Ordinance #19 on October 6, 2018.

Dated: May 7, 2019.

Tara Sweeney,
Assistant Secretary–Indian Affairs.

The Mechoopda Indian Tribe of Chico Rancheria’s Alcoholic Beverage Ordinance #19 shall read as follows:

Mechoopda Indian Tribe of Chico Rancheria, California

Ordinance No. 19

Alcoholic Beverage Ordinance

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1. Title.

This Ordinance shall be known as the Mechoopda Indian Tribe of Chico Rancheria, California, Alcoholic Beverage Ordinance.

2. 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 VIII, of the Constitution of the Mechoopda Indian Tribe of Chico Rancheria, California, and the Tribe's inherent sovereignty.

3. Purpose.

The purpose of this Ordinance is to regulate and control the manufacture, distribution, and sale of Alcoholic Beverages on the Tribe's Trust Lands and to permit the sale of Alcoholic Beverages by tribally owned enterprises and private licensees. The enactment of this Ordinance shall help provide a source of revenue for the continued operation of the tribal government and the provision of governmental services to tribal members.

4. Applicability.

This Ordinance shall apply to all lands now or in the future held in trust by the federal government for the benefit of the Tribe (“Trust Lands”). This Ordinance is in conformity with the laws of the State as required by 18 U.S.C. § 1161.

5. Definitions.

5.1 “Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, in any form and regardless of source or the process used for production.

5.2 “Alcoholic Beverage” means any beverage containing or consisting of Alcohol, Spirits, Wine, or Beer or combination thereof and every liquid or solid containing Alcohol, Spirits, Wine, or Beer, and which contains one-half of one (1) 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.

5.3 “Alcoholic Beverage License” means a permanent or temporary license to sell Alcoholic Beverages issued pursuant to this Ordinance.

5.4 “Beer” means a beverage containing Alcohol created 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, small beer, and strong beer, but does not include Japanese rice wine.

5.5 “Spirits” means any beverage obtained by the distillation of fermented agricultural products including but not limited to spirits of wine, whiskey, rum, brandy, vodka, tequila, scotch, liqueurs, and gin, including all dilutions and mixtures thereof, and includes proof spirits.

5.6 “General Membership” means the general membership of the Mechoopda Indian Tribe of Chico Rancheria, California.

5.7 “Licensed Premises” means the location at which an Alcoholic Beverage License authorizes a Licensee to sell Alcoholic Beverages.

5.8 “Licensee” means the holder of an Alcoholic Beverage License.

5.9 “Ordinance” means this Mechoopda Indian Tribe of Chico Rancheria, California, Alcoholic Beverage Ordinance.

5.10 “State” means the State of California.

5.11 “Temporary Alcoholic Beverage Permit” means an authorization for a Licensee to sell alcohol at a designated temporary location granted by the Tribal Council, or designee.

5.12 “Tribal Council” means the Tribal Council of the Mechoopda Indian Tribe of Chico Rancheria, California.

5.13 “Tribe” means the Mechoopda Indian Tribe of Chico Rancheria, California, a federally recognized Indian tribe.

5.14 “Trust Lands” means those lands held in trust for the benefit of the Tribe by the United States of America.

5.15 “Wine” means the product obtained from normal alcoholic fermentation of the juice of sound ripe grapes or other agricultural products containing natural or added sugar and blending material and which contains not more than 24 percent of alcohol by volume, and includes vermouth and Japanese rice wine.

6. Powers of Enforcement.

6.1 Powers. The Tribal Council, or designee, shall have the following powers and duties:

(a) To publish and enforce the rules and regulations governing the

manufacture, distribution, and sale of Alcoholic Beverages on Trust Lands;

- (b) To employ managers, accountants, security personnel, inspectors, and such other persons as shall be reasonably necessary to allow the Tribal Council to perform its functions pursuant to this Ordinance;
- (c) To issue Alcoholic Beverage Licenses permitting the manufacture, distribution and/or retail of Alcoholic Beverages on Trust Lands;
- (d) To hold hearings on violations of this Ordinance or for revocation or denial of Alcoholic Beverage Licenses;
- (e) To bring suit in the appropriate court of competent jurisdiction to enforce this Ordinance, as necessary;
- (f) To determine and seek damages for violation of this Ordinance;
- (g) To make such reports to the General Membership as may be required herein;
- (h) To levy taxes and fees on the manufacture, distribution and sale of Alcoholic Beverages in accordance with this Ordinance;
- (i) To collect taxes and fees, and to keep accurate records, books, and accounts; and
- (j) To exercise such other powers as are necessary and appropriate to fulfill the purposes of this Ordinance.

6.2 Limitation on Powers. In the exercise of its powers and duties under this Ordinance, the individual members of the Tribal Council shall not accept for personal gain any gratuity, compensation or other items of value from any

Alcoholic Beverage wholesaler, retailer, vendor, or distributor or from any Licensee.

6.3 Inspection Rights. Any premises on which any Alcoholic Beverage is sold or distributed shall be open for inspection by the Tribal Council, or designee, during normal business hours for the purpose of ascertaining whether the rules and regulations of this Ordinance are being followed.

7. Licensing.

7.1 Alcoholic Beverage License. The Tribal Council, or designee, may issue an Alcoholic Beverage License only upon written application including the following:

- (a) Satisfactory proof that the applicant is licensed to engage in the retail sale of Alcoholic Beverages by the State of California.
- (b) A description of the premises in which the Alcoholic Beverages are to be sold, and proof of the applicant's right to occupy and sell Alcoholic Beverages on the premises for the duration of the requested Alcoholic Beverage License.
- (c) Written agreement by the applicant to accept and abide by all conditions of the Alcoholic Beverage License.
- (d) Payment of the fee as may be prescribed by the Tribal Council, or designee, from time to time.
- (e) Written disclosure of any prior Alcoholic Beverage License or Temporary Alcoholic Beverage Permit, any prior violations of this Ordinance, and any penalties imposed under this Ordinance.

7.2 Temporary Permits. The Tribal Council, or its designee, may grant a Temporary Alcoholic Beverage Permit authorizing a Licensee in good standing to sell Alcoholic Beverages at a designated temporary site located on Trust Lands in connection with a public event.

7.3 Denial of License. Applicants denied a license may request a hearing before the Tribal Council, or designee, within fifteen (15) days of the Applicant's receipt of notice of such denial. The notice shall set forth the right of the alleged violator to be represented by legal counsel, speak and present witnesses, and cross examine any adverse witnesses. The decision of the Tribal Council, or designee, shall be issued within sixty (60) days of the date of the hearing and shall be final and non-appealable.

7.4 Conditions of the Alcoholic Beverage License. Any Alcoholic Beverage License, or Temporary Alcoholic Beverage Permit, issued under this Ordinance shall be subject to such reasonable conditions, restrictions, and limitations, as the Tribal Council, or designee, shall prescribe, including, at a minimum the following:

- (a) No Alcoholic Beverage License shall be for a term greater than one (1) year.
- (b) Unless otherwise authorized by a Temporary Alcohol Beverage Permit, all sales and consumption of Alcoholic Beverages must occur within the Licensed Premises.
- (c) The Licensee shall at all times maintain the Licensed Premises and the

immediate surrounding area in an orderly, clean, and sanitary manner.

- (d) The Licensed Premises shall be subject to patrol by tribal law enforcement officials and such other enforcement officials as may be authorized under federal, State, or Tribal law.
- (e) The Licensed Premises shall be open to inspection by designated officials of the Tribe at all times during normal business hours.
- (f) No Alcoholic Beverages shall be sold, served, or consumed on the Licensed Premises except in conformity with the hours and days prescribed by the laws of the State or in accordance with more restrictive hours fixed as may be prescribed by Tribal law.
- (g) No Alcoholic Beverages shall be sold within 200 feet of a polling place on Tribal election days or when a referendum is being held.
- (h) All acts and transactions under authority of the Alcoholic Beverage License shall be in conformity with the laws of the State and this Ordinance.
- (i) No person under the minimum age permitted under State law then in effect shall be permitted to purchase, receive, or consume Alcoholic Beverages on the Licensed Premises.
- (j) An Alcoholic Beverage License must specify whether a Licensee may sell Beer, Wine, and/or Spirits.

7.5 License Not A Property Right. An Alcoholic Beverage License shall not be deemed a property right or vested right of any kind, nor shall the granting of an Alcoholic Beverage License give rise to a presumption of legal entitlement to the

granting of such license for a subsequent time period.

7.6 Assignment or Transfer. An Alcoholic Beverage License may not be assigned or transferred.

8. Prohibitions.

8.1 Sales Without a License; Possession with Intent to Sell Without a License. Any person who sells, offers for sale, or distributes any Alcoholic Beverages on Trust Land without having first obtained an Alcoholic Beverage License, or who possesses Alcoholic Beverages with the intent to sell or distribute on Trust Land without having first obtained an Alcoholic Beverage License shall be in violation of this Ordinance; provided, however, nothing in this Ordinance shall be construed to prohibit a State-licensed Alcoholic Beverage distributor from making deliveries of Alcoholic Beverages on Trust Land to a Licensee without having first obtained an Alcoholic Beverage License.

8.2 Purchases from Non-Licensed Sellers. Any person who, while on Trust Lands, buys an Alcoholic Beverage from any person other than a Licensee shall be in violation of this Ordinance.

8.3 Sales to Persons Under the Influence of Alcohol. Any person who sells any Alcoholic Beverages to any apparently intoxicated person shall be in violation of this Ordinance.

8.4 Consumption or Possession of Alcoholic Beverage by Under-Aged Persons. Any person under the minimum age for Alcohol consumption under State law who consumes, possesses, or attempts to consume or possess any Alcoholic Beverage on Trust Lands shall be in violation of this Ordinance.

8.5 Sales of Alcoholic Beverage to Under-Aged Persons. Any person who sells or otherwise provides an Alcoholic Beverage to any person under the minimum age for Alcohol consumption under State law shall be in violation of this Ordinance.

8.6 Use of False or Altered Identification. Any person who attempts to purchase any Alcoholic Beverage on Trust Lands through the use of false or altered identification shall be in violation of this Ordinance.

8.7 Acceptable Identification. Any Licensee who sells or otherwise provides any Alcoholic Beverage to a person who appears he or she may be under the minimum age for Alcohol consumption under State law without first verifying that person's age with an acceptable form of identification shall be in violation of this Ordinance. The following are acceptable forms of identification:

- (a) A current driver's license of any state or other current identification card issued by any state;
- (b) A current passport of any nation; or
- (c) A Mechoopda Indian Tribe of Chico Rancheria, California, tribal member identification card.

8.8 No Extension of Credit. Any Licensee who makes a retail sale of any Alcoholic Beverage on credit shall be in violation of this Ordinance; provided, however, nothing in this Ordinance shall prohibit the use of ATM cards, debit cards, or credit cards as a means of purchasing Alcoholic Beverages.

8.9 Sale for Personal Consumption. Any person, organization, or entity, other than a Licensee, who purchases any Alcoholic Beverage on Trust Lands and resells the Alcoholic Beverage, shall be in violation of this Ordinance.

9. Enforcement.

9.1 Fine Imposed. In addition to any other penalty, any person, organization, or entity in violation of this Ordinance or any Alcoholic Beverage License or Temporary Alcoholic Beverage Permit shall be liable for a reasonable civil fine not to exceed \$500.00 per violation.

9.2 Revocation or Suspension of License. In addition to any other penalty, any Alcoholic Beverage License or Temporary Alcoholic Beverage Permit may be suspended or revoked for violation of this Ordinance, an Alcoholic Beverage License, or a Temporary Alcoholic Beverage Permit.

9.3 Right to Notice and Hearing. No penalty, other than temporary suspension of an Alcoholic Beverage License or Temporary Alcoholic Beverage Permit, shall be imposed under this Ordinance without first providing the alleged violator written notice of the circumstances surrounding the alleged violation and the opportunity to be heard and present witnesses and evidence at a hearing before the Tribal Council, or designee, within fifteen (15) days of the alleged violator's receipt of such notice. The notice shall set forth the right of the alleged violator to be represented by legal counsel, speak and present witnesses, and cross examine any adverse witnesses. The decision of the Tribal Council, or designee, shall be issued within sixty (60) days of the date of the hearing and shall be final and non-appealable.

9.4 Seizure of Contraband. Any Alcoholic Beverage possessed, transferred, sold, or purchased contrary to the terms of this Ordinance, an Alcoholic Beverage License, or a Temporary Alcoholic Beverage Permit is contraband and subject to

seizure by a designated Tribal official. Contraband shall be preserved in accordance with State law and shared with State and federal law enforcement officials as required by law.

10. Taxes.

10.1 Sales Tax. There is hereby levied and shall be collected a tax on each sale of Alcoholic Beverages on Trust Lands in an amount to be determined by the Tribal Council, or designee, from time to time. The tax imposed pursuant to this section shall be in addition to any tax imposed on Alcoholic Beverages sales by the State.

10.2 Taxes Due. All taxes for the sale of Alcoholic Beverages on Trust Lands are due and payable to the Tribal Council, or designee, within thirty (30) days of the end of the calendar quarter.

10.3 Reports. Along with the payment of taxes imposed herein, the Licensee shall submit an accounting for the quarter of all income from the sale of Alcoholic Beverages as well as the amount of taxes collected.

10.4 Audit. The Tribal Council, or designee, shall have the right to review or audit the books and records of any Licensee relating to the sale of Alcoholic Beverages on Trust Lands at any time during the Licensee's normal business hours.

11. Severability and Miscellaneous.

11.1 Severability. If any provision or application of this Ordinance is determined upon review by a court of competent jurisdiction to be invalid, such adjudication shall not be held to render ineffectual the remaining provisions of this Ordinance

or to render such provisions inapplicable to other persons or circumstances.

11.2 Prior Enactments. Any and all ordinances, resolutions, or enactments of the Tribal Council which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

12. Amendments.

Any amendments to this Ordinance shall become effective upon the Secretary of the Interior's publication of the same in the Federal Register in accordance with federal law.

13. Effective Date.

This Ordinance shall be effective upon the Secretary of the Interior's publication of the same in the Federal Register in accordance with federal law.

14. Sovereign Immunity.

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

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