

TITLE 19
ALCOHOLIC BEVERAGE CONTROLS

CHAPTER 19.01
General Provisions

19.0101 **Definitions.**

For the purpose of this Chapter:

1. "Alcoholic beverages" shall mean any liquid suitable for drinking by human beings, which 'contains one-half (1/2) of one percent (1%) or more of alcohol by volume.
2. "Beer" shall mean any malt beverage containing more than one-half (1/2) of one percent of alcohol by volume.
3. "Liquor" shall mean any alcoholic beverage except beer.
4. "Person" shall mean and include any individual, firm, corporation, association, club, co-partnership, society, or any other organization; and shall include the singular and the plural.
5. "Sale" and "sell" shall mean all manner or means of furnishing alcoholic beverages, including the selling, exchange, barter, dispensation of, and keeping for sale of such alcoholic beverages.
6. "Package" and "original package" shall mean and include any container or receptacle containing an alcoholic beverage, which container or receptacle is corked or sealed by the manufacturer thereof and which cork or seal has not been removed or broken prior to the sale of such package to the purchaser.
7. "Club" or "lodge" shall include any corporation or association organized for civic, fraternal, social or business purposes, or the promotion of sports, which has at least two hundred (200) members at the time of application for license.
8. "Retail sale" shall mean the sale of alcoholic beverages for use or consumption and not for resale.
9. "Off-sale" shall mean the sale of alcoholic beverages in original packages for consumption off or away from the premises where sold, and an off-sale license shall authorize the person named therein to conduct such off-sales only at the place designated in such license, and not elsewhere, and shall not permit the opening of the package sold on the premises where sold. Such sale must in each case be completed by delivery of the liquor sold to the actual purchaser thereof on the licensed premises.
10. "On-sale" shall mean the sale of alcoholic beverages for consumption only on the premises where sold, and an on-sale license shall authorize the licensee to conduct such on-sales only at the place designated in such license, and not elsewhere.
11. "Specialty License" shall mean a food establishment selling tap beer and/or wine.

19.0102 **Exceptions.**

1. This Chapter shall not apply to wines delivered to priests, rabbis, and ministers for sacramental use.
2. This Chapter shall not be construed to apply to the following articles, when they are unfit for beverage purposes:
 - a. Denatured alcohol produced and used pursuant to Acts of Congress and the regulations thereunder;
 - b. Patent, proprietary, medical, pharmaceutical, antiseptic and toilet preparations;
 - c. Flavoring extracts, syrups, and food products;
 - d. Scientific, chemical, and industrial products; nor to the manufacture or sale of said articles containing alcohol.

19.0103 **License required.**

No person shall sell at retail within the limits of this Reservation any

alcoholic beverage without first having obtained a license therefore as herein provided.

19.0104 License; Term of.

1. All licenses issued hereunder shall be for a period of not more than one (1) year and shall expire on the 30th day of June in each year. Where a license is granted for a period less than a year, any subsequent renewal thereof must be made for the full annual term.
2. If an application is made for license hereunder during the license year for the unexpired portion of such year, the fees therefore shall be as follows:
 - a. If the short term be for three (3) months or less, the license fee therefore shall be 25% of the annual license fee.
 - b. If the term be for more than three (3) months and less than six (6) months, the license fee therefore shall be fifty percent 50% of the annual license fee.
 - c. If the term be for more than six (6) months but less than nine (9) months, the license fee therefore shall be seventy-five percent 75% of the annual license fee.
 - d. For any term in excess of nine (9) months, the full annual license fee shall be paid.

19.0105 License; Classes of.

1. On and off sale liquor licenses at an annual fee of six hundred dollars (\$600).
2. Off sale liquor license at an annual fee of three hundred dollars (\$300).
3. On and off sale beer license at an annual fee of six hundred dollars (\$600).
4. Off sale beer license at an annual fee of three hundred dollars (\$300).
5. Specialty license at an annual fee of four hundred dollars (\$400) for tap beer, and five hundred dollars (\$500) per year to sell tap beer and wine.

19.0106 License; Lodges or clubs.

The combined fee for all four (4) classes of licenses shall be in the sum of one thousand two hundred dollars (\$1,200) per year for a lodge or club with a membership up to five hundred (500), and shall be in the sum of one thousand two hundred dollars (\$1,200) for a lodge or club with a membership over one thousand five hundred (1,500).

19.0107 License; Qualifications for.

No retail license shall be issued to any person unless the applicant shall sign a sworn application, accompanied by the required fee, showing the following qualifications:

1. Applicant, if an individual, must be a citizen of the United States, and be a person of good moral character.
2. If applicant is a corporation, the manager of the licensed premises, and the officers, directors and stockholders must be citizens of the United States, and persons of good moral character. Corporate applicants must first be properly registered with the Secretary of the Tribal Council.
3. If applicant is a co-partnership, all the members must be citizens of the United States and residents of North Dakota for a period of more than one (1) year prior to the date of application, and be persons of good moral character.
4. Applicant or manager must not have been convicted of a felony.
5. Building in which business is to be conducted must meet Tribal and state requirements regarding the sanitation and safety.
6. If applicant's place of business is to be conducted by a manager or agent, said manager or agent must possess the same qualifications required of the licensee.

License; Application for.

Any person desiring a license to sell alcoholic beverages at retail as hereinbefore described shall make and present a written verified application to the Tribal Council of this Reservation, filed with the Tribal Secretary, containing the following information:

1. The name and address of the applicant; if the applicant is a co-partnership, the name and address and place of residence of each member of said co-partnership; if the applicant is a corporation, the name and address of the officers of the corporation, and the manager of the licensed premises.
2. Whether the applicant is a citizen of the United States, and if a naturalized citizen, the date and place of naturalization, and place of residence of the applicant for a period of one (1) year last preceding the date of application; if the applicant is a co-partnership, the same preceding information for each member of said co-partnership; and if the applicant is a corporation, the date incorporated, the state where incorporated, the purpose for which said corporation was incorporated, and if such corporation is a subsidiary of any corporation, the name of the parent corporation.
3. The legal description and the address of the premises for which license is sought.
4. The date on which the applicant acquired title to the premises sought to be licensed, and if the applicant does not have title to said premises, the name and address of the owner of the premises together with a copy of the applicant's lease, if written, under which he holds possession of said premises.
5. Whether the applicant has ever engaged in the sale or distribution of alcoholic beverages prior to this application, and if so, the date and type of business, and place where so engaged whether within or without the State of North Dakota, the date the applicant first began to operate.
6. Whether the applicant has ever had a license revoked or cancelled by any Tribal, municipal, state or federal authority, and if so, the date of such cancellation, the place and authority canceling same, and the reason for such cancellation.
7. Whether the applicant has ever been convicted of the violation of any law of any Indian Tribe, the United States, or of any state, or of the violation of any local ordinance, with regard to the manufacture, sale, distribution or possession of alcoholic beverages, and if so, the dates, names of places, and courts, in which said convictions were had.
8. Whether the applicant has ever had a license for the sale of alcoholic beverages revoked for any violation of state or Tribal laws, or local laws or local ordinances, and if so, the names of the bodies revoking such license, the dates of such revocation, and the reasons assigned there for.
9. Whether the applicant has ever been convicted of any other crime than stated in subsections (7) and (8) hereof, in this state or any other state, or under any federal law, and if so, the date of such conviction, the name of the crime for which convicted, the amount and terms of sentence passed, and the court in which convicted.
10. The name, address and place of residence for a period of one (1) year prior to the date of application of any person who will have charge, management, or control of the establishment for which license is sought.
11. Whether any person other than the applicant has any right, title, estate or interest in the leasehold, or in the furniture, fixtures, or equipment in the premises for which license is sought, and if so, the name and address of such person, together with a statement of the interest so held.
12. Whether the applicant has any interest whatsoever, directly or indirectly, in any other establishment dispensing alcoholic beverages, either at wholesale or retail, within or without the State of North Dakota, and if so, the names and addresses of such establishments. This provision is meant to include the holders of capital stock in any corporation dealing

in alcoholic beverages, either at wholesale or retail, and within the borders of the United States.

13. The occupation which the applicant has followed during the past five (5) years.
14. The names and addresses of at least three (3) business references.
15. Whether the applicant is rated by any commercial agency, and if so, the name and address of said agency.
16. Whether the applicant is engaged in any other business, or intends to be engaged in any business other than the sale of alcoholic beverages under the license for which application is made, and if so, the type of business, and if an employee, the name and address of the employer.
17. The classification of license applied for.
18. If the applicant is a lodge or a club, the date of organization, the number of members, the purpose for which organized, and the purpose for which profits to be derived from the sale of alcoholic beverages are to be applied; and whenever required by the Tribal Council, a list of the members belonging to such lodge or club.
19. A statement by the applicant that he consents to entry and inspection of the premises for which license is sought, or any part thereof at any time by any peace officer of this Tribe.

19.0108(1) Alcoholic Beverage Server Training.

A person that holds or makes application for a license or for renewal of a valid license issued by the Tribal Council pursuant to **Chapter 19.0108 License; Application for.** which authorizes the sale of alcoholic beverages, as part of the application process, shall certify to the Tribal Council that the applicant's employees who, as part of the employees' responsibilities, sell, prepare, dispense, serve or otherwise deliver alcoholic beverages directly to patrons of the licensed establishment, or who manage employees who perform those functions, have successfully completed an Alcoholic Beverage Server Training program (reviewed by TERO and) recognized and approved by the Tribal Council in accordance with this Chapter. An applicant who participates directly in the management of the licensed establishment also is required to successfully complete a Responsible Beverage Server Training program recognized and approved by the Tribal Council. Amended-TMBC1151-08-20

1. Training Standards and Curriculum.

To be recognized and approved by the Tribal Council, an **Alcoholic Beverage Server Training** program must include information on the following:

- a. Alcohol as a drug and alcohol's effects on the body and behavior;
- b. Applicable state and Tribal laws and Tribal Council or TERO licensing authority rules;
- c. Laws related to drinking and driving;
- d. Intervention techniques, involving methods of dealing with problem customer who has had, or is approaching the point of having consumed too much alcohol; and
- e. Carding procedures and importance of not selling or serving alcohol to any individual under twenty-one (21) years of age.

The Tribal Council may provide additional training standards and curricula to be included within any responsible **alcoholic beverage server training program** as condition for recognition and approval.

An individual required to undergo training in accordance with this Chapter, who has within the previous three years successfully completed an **Alcoholic Beverage Server Training** program that satisfies the requirements of the Tribal Council, and is approved by the Tribal Council, is not required to undergo renewal training in accordance with **Section 19.0108 License; Application for.**

2. Certification and Renewal Training.

An individual who successfully completes an approved **Alcoholic Beverage Server Training** program must be certified by the instructor as having met the requirements of this Chapter. The course must be approved by the Tribal Council. The instructor shall provide the names of the individuals who successfully complete the approved class, as well as any additional information that is required, to the Tribal Council and TERO - the local licensing authority. The certification is valid for three years at which time the individual must undergo renewal training to retain certification that also is valid for three years. Renewal training must include the information described in **Training Standards and Curriculum** and any additional information as the Tribal Council may require by rule

19.0109 License; Applicant fitness.

The captain of Police, or such other person or officer as may be designated by the Tribal Council, shall upon the filing of an application, investigate the facts as stated in the application, and the character, reputation and fitness of the applicant, and shall report on said matters to the Tribal Council.

19.0110 License; Limit to one applicant.

Not more than one (1) license of each classification shall be issued or granted to any applicant, and each license shall be valid only for the specific premises licensed.

19.0111 License; Limit of number.

The maximum number of each classification of licenses for on/off sales which may be issued shall be limited to ten (10) for all liquor establishments, with a minimum of two (2) per district.

The number of Specialty Restaurant Licenses for the sale of tap beer shall be one (1) per district for a total of four (4) Specialty Licenses.

19.0112 License; Location of.

No license shall be issued to or transferred to any person, firm, or corporation to engage in the sale of beer or alcoholic beverages within the Reservation without approval as to the location of said licensed business by the Tribal Council. The application for approval shall be in writing filed with the Council. Public hearing shall then be had of said application, upon notice published in the official minutes of the Tribal Council two (2) times, the first publication to be at least fifteen (15) days before the hearing date set for hearing said application. At the time of hearing, the Tribal Council shall in its discretion determine if said location is in harmony with the public interest and welfare of the community, and shall consider among other things the following factors:

1. The convenience of police regulation.
2. Public health and sanitation.
3. Proximity of other licensed businesses.
4. Proximity of schools, churches, funeral homes, public buildings, or buildings used by or for minors.
5. Any protests of neighboring property owners or occupants.
6. Zoning regulations.
7. Proposed on or off sale, or both of licensee.
8. Interference with, or proximity to residential property.
9. Interference with neighboring property.
10. Suitability of premises for sale of beer, liquor or alcoholic beverages.
11. Public convenience and necessity.

19.0113 License; Posting of.

License issued hereunder shall be posted in a conspicuous place in the premises for which the license has been issued.

- 19.0114 **License; Transfer of.**
No license under the provision of this Chapter shall be transferable, and any attempt to do so shall constitute a violation of the provisions of this Chapter.
- 19.0115 **License fees; Disposition of.**
All license fees collected under this Chapter shall be transferable to the Treasurer of the Tribal Council, and credited to the general fund of the Turtle Mountain Band of Chippewa Indians.
- 19.0116 **Hours and time of sale.**
A person may not dispense or permit the consumption of alcoholic beverages on a licensed premises between two a.m. and eleven a.m. on Sundays, between the hours of two a.m. and eight a.m. on all other days of the week, or on Christmas Day or after six p.m. on Christmas Eve. In addition, a person may not provide off sale after two a.m. on Thanksgiving Day or between two a.m. and noon on Sundays. A person that violates this section is guilty of a class 3 offense. Amended-Resolution No. TMBC857-02-18
- 19.0117 **Licensee's responsibility.**
Every licensee is hereby made responsible for the conduct of his place of business, and is required to maintain order and sobriety in such place of business permitting no disorderly conduct on the premises. Alcoholic beverages shall not be served to any intoxicated person, nor shall any intoxicated person be permitted to remain upon the premises.
- 19.0118 **Cashing certain checks prohibited.**
No licensee hereunder shall cash any bank check, voucher, order, or document of any kind drawn by a County Welfare Board, or any state or federal agency in payment for wages made for work done on any so-called work relief project, or for relief purposes, which by its terms authorizes or permits any person presenting such bank check, voucher, order or document to receive payment of money.
- 19.0119 **Sales prohibited; items.**
No licensee shall sell on the licensed premises any item other than alcoholic beverages, soft drinks, tobacco products, drink mixing supplies, peanuts, pretzels, potato chips and related sundries; except a licensee may sell alcoholic beverages in a restaurant separated from the room in which alcoholic beverages are opened or mixed if gross sales of food are at least equal to sales of alcoholic beverages in the dining area.
- 19.0120 **Sales prohibited; persons.**
No licensee, his agent, or employee shall sell any alcoholic beverages to a person under twenty-one (21) years of age, a habitual drunkard, an incompetent, or an intoxicated person.
- 19.0121 **Minors in licensed premises.**
No licensee shall permit any person under twenty-one (21) years of age to remain on the licensed premises while alcoholic beverages are being sold or displayed thereon, except that a person under twenty-one (21) years may remain in a restaurant where alcoholic beverages are being sold if accompanied by a parent or legal guardian.
- 19.0122 **Age identification.**
Before selling alcoholic beverages to any person, or before determining whether any person shall remain upon the licensed premises, a licensee, his

agent or employee may require a statement in writing, signed by said person, of such person's age. Any person who makes a false statement as to his or her age, or signs a name other than his own or her own to any such statement, shall be guilty of a violation of this Chapter.

19.0123 Street sales prohibited.

The sale or consumption of alcoholic beverages upon or across any street, alley, or public way is prohibited.

19.0124 Premises, equipment of.

Premises licensed hereunder for on-sale alcoholic beverages shall be equipped with tables, chairs, booths and stools in a sufficient number to reasonably accommodate the patrons.

19.0125 Closed or screened areas.

No premises licensed for on-sale of alcoholic beverages shall contain any side rooms, closed booths, or other screened enclosures, nor shall any screen, partition, curtain, blind, or obstruction of any kind prevent a clear view at all times of all parts of the interior of the premises licensed. All booths located in such premises shall open directly into the main part of said premises, and shall be accessible from the aisles therein.

19.0126 Purchase from licensed wholesaler.

No licensee hereunder shall purchase, have or possess any alcoholic beverages other than those purchased from a wholesaler duly licensed by the State of North Dakota pursuant to the provisions of Title V of the North Dakota Century Code; and each licensee hereunder shall keep on file all invoices covering purchases by him of such alcoholic beverages showing the name and license number of the wholesaler, and such records shall be retained in the possession of the licensee, and shall be at all times open to inspection by any police officer.

19.0127 Toilets required.

The premises for which an on-sale license is granted must be equipped with adequate and sufficient lavatories and toilets, separately maintained for men and women, and kept in a clean and sanitary condition. The on-sale license may be revoked when the foregoing requirements, or any other health ordinance or regulation, is not, at all times, strictly observed.

19.0128 Bottle clubs.

No person shall operate an establishment whereby persons are allowed to bring their own alcoholic beverages on the premises where the proprietor sells soft drinks, mix, ice, or charges for bringing such beverages on the premises.

19.0129 Deliveries; Off licensed premises.

1. It shall be unlawful for any person, firm or corporation engaged in the retail sale of liquor, beer or alcoholic beverages to make, or cause to be made, any deliveries outside of the licensed place of business of beer, liquor or other alcoholic beverages to any purchaser or prospective purchaser.
2. It shall be unlawful for any person, firm or corporation to deliver by foot, carrier, or motor carrier, any beer, liquor or alcoholic beverage to any person within the reservation provided however, that this section shall not apply to deliveries made by a licensed wholesaler dealer to a licensed retail dealer.
3. Where any retail alcoholic beverage or beer license is a club or lodge, such licensee shall sell to members and their guests only.

19.0130 Termination or revocation of licenses.

1. Licenses issued pursuant to this Title shall be deemed cancelled and

revoked, and terminated upon the happening of any one (1) or more of the following contingencies.

- a. The death of the licensee, unless upon application to the Tribal Council by personal representative of the decedent, the Tribal Council shall consent to the carrying on of the business by the personal representative.
 - b. When the licensee ceases business at the location licensed, unless a new location has been approved.
 - c. When the licensee be adjudged bankrupt.
 - d. When the licensee ceases to possess the qualifications required of an applicant for a license as set out in this Chapter.
 - e. When the license or permit of the licensee from the United States Government or the State of North Dakota to sell alcoholic beverages at the location licensed has been terminated or been revoked.
2. License issued pursuant to this ordinance may, in the discretion of the Tribal Council, be either revoked or suspended for such period of time as deemed appropriate, upon the grounds:
 - a. When the licensee has been convicted of violating any of the provisions of this Chapter.
 - b. When the business of the licensee at the location licensed shall be conducted in violation of health or sanitary regulations, or other ordinances of the Turtle Mountain Indian Reservation.
 3. Such causes as are hereinbefore detailed shall not be deemed to be exclusive, and such license may also be cancelled and revoked, or suspended at any time by the governing body for any cause deemed by said governing body to be sufficient cause, and justified by reason of public health or public morals. Such termination shall be subject only to review by the Tribal Courts.
 4. When any license is terminated or revoked for cause, or the licensee voluntarily ceases his business, no portion of the license fee previously paid shall be returned to the licensee, or to anyone claiming under or through him.

19.0131 Persons less than twenty-one (21) years prohibited; Exceptions.

It shall be unlawful for any person under twenty-one (21) years of age to purchase, attempt to purchase, or be in possession of alcoholic beverage, or furnish money to any person for such purchase, or enter any licensed premises where such beverages are being sold or displayed, except a restaurant when accompanied by a parent or legal guardian.

19.0132 Violation of provisions of this chapter (Indian).

Any Indian violating any of the provisions of this Chapter shall be guilty of an offense, and shall be punished by a fine of not more than one hundred dollars (\$100), or by confinement for not more than thirty (30) days, or by both such fine and confinement with costs.

19.0133 Violations of provisions of this Chapter (non-Indian).

Any non-Indian licensee violating any of the provisions of this Chapter shall be removed from the reservation pursuant to Article IX, Section 4 of the Constitution and By-laws of the Turtle Mountain Band of Chippewa Indians.