

# *Washoe Tribe of Nevada and California*

## **Law & Order Code**

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### **TITLE 39 – LIQUOR LICENSE CODE**

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*[Enacted on: 1/12/2018 – Resolution: 2018-01-WTC-003 – Effective Date: 1/12/2018]*

#### **39-10 AUTHORITY & PURPOSE.**

- 39-10-010** This Title is enacted pursuant to the Washoe Tribe of Nevada and California's ("Washoe Tribe") inherent authority and in accordance with the powers delegated to the Washoe Tribal Council under Article VI, Section I(f) of the "Constitution and By-Laws of the Washoe Tribe of Nevada and California." In addition, this Title is adopted in accordance with 18 U.S.C. §1161.
- 39-10-020** In 1975, the Washoe Tribal Council adopted a Liquor Ordinance, which legalized the introduction, possession, use and consumption of alcoholic beverages within the exterior boundaries of Washoe Indian Country.
- 39-10-30** The purpose of this Title is to protect the health, safety and welfare of the inhabitants of Washoe Indian Country through the license and control of those persons or businesses that are engaged in the introduction, possession, use, consumption, making of, distribution, or Sale of Intoxicating Liquors.

#### **39-20 DEFINITIONS.**

1. "Alcohol," means ethyl alcohol, hydrated oxide of ethyl, spirit of wine, or any product of distillation of fermented Liquor, rectified either once or more often, from whatever source or by whatever process produced, and includes synthetic ethyl alcohol.
2. "Applicant" means a Person seeking one or more Licenses and / or a renewal of a previously issued License.
3. "Application" means the form used to apply for a new Liquor License.
4. "Bar," is a physical structure with a flat horizontal counter, on one side of which alcoholic Liquors are kept and maintained, where seats may be placed for patrons to sit and where the Sale and service of alcoholic beverages are by the drink across such structure. A bar does not include pass-thru windows or guest room mini-bars.
5. "Caterer," means a purveyor of food or provisions for special occasions, parties, or social gatherings where food is provided for consumption on premises or locations not associated with an on-site Liquor License.

6. "Convicted," means a finding of guilt resulting from a plea of guilty, a decision of a court or magistrate, or a verdict of a jury regardless of the pronouncement of judgment or the suspension thereof.
7. "Event," is one occurrence provided it does not last more than seven contiguous days. Any break in contiguous days shall be considered as a different event.
8. "Intoxicating Liquor Maker" refers to a person or business that makes Intoxicating Liquor for resale only.
9. "Intoxicating Liquor," or "Liquor" includes but is not limited to beer, wine, gin, whiskey, vodka, tequila, cordials, ethyl alcohol, or rum and every liquid containing one-half of one percent or more of alcohol by volume and which is used for beverage purposes.
10. "Licensee," means any Person to whom a valid Liquor License has been issued pursuant to this Title.
11. "Licensee's Business," means the enterprise operated by the Licensee.
12. "Liquor License," means any one of the seven classes of licenses available pursuant to section 39-30-010 in this Liquor License Code.
13. "Live Entertainment," means the presentation of live music or theme shows.
14. "Key Employee," means an officer, employee, or manager of a Licensee having the power to exercise significant oversight over the operation of a Licensee.
15. "Material Misrepresentation," means failure to disclose facts relevant to an Application, including not limited to failing to disclose prior criminal history or failing to disclose partners or others who are financially involved in the operation of the Licensee's Business.
16. "Non Profit," "means an organization of persons engaged in conducting and maintaining a bona fide fraternal, civic, social, recreational, or other such organization which is not engaged in the Sale of alcoholic beverages solely for pecuniary gain or commercial profit.
17. "On Site," means the Sale of Intoxicating Liquor for consumption at one or more locations on a Premises.
18. "Packaged," means the Sale of any Intoxicating Liquor in its original packaging for consumption off the Premises.
19. "Person," means any natural person, firm, association, partnership, federally, tribally, or state registered corporation or limited liability company, subdivision of a corporation, tribe, tribal agency, or other tribal or non-tribal entity capable of possessing a Liquor License.
20. "Premises," mean any and all places associated or connected with and accessible to the Licensed Business.
21. "Renewal Application" means the abbreviated form used to apply to renew a previously issued Liquor License which may be submitted if the Key Employee who is actively engaged in the management of the Licensee's

Business has not changed and there have been no violations of this Liquor License Code by the Licensee.

22. "Retailer," means any Person who sells at retail any Intoxicating Liquor.
23. "Sale," (or to "Sell") means the selling, exchanging, transferring, or giving-away of Intoxicating Liquor in any manner or by any means whatsoever.
24. "Special Events," means an event of up to seven consecutive days that is not scheduled to occur more than once per month and in any case no more than twelve times per year.
25. "Washoe Indian Country," shall be all lands over which the Washoe Tribe asserts territorial or extraterritorial jurisdiction.
26. "Washoe Tribal Council" or "Tribal Council" shall mean the governing body of the Washoe Tribe of Nevada and California.
27. "Washoe Tribe" shall mean the Washoe Tribe of Nevada and California.
28. "Wholesaler," means any Person licensed to Sell Intoxicating Liquor as it is originally packaged to retail stores or to another licensed Wholesaler but not directly to the consumer or general public. "Wholesaler" also includes distributors who offer Intoxicating Liquor for Sale in its original packing to Retailers.
29. "Wine," means any alcoholic Liquor obtained by the fermentation of natural sugar contents of fruits or other agricultural products containing sugar, including fortified wines such as port, sherry, and champagne.
30. "Unrestricted," means a Liquor License that allows the holder to offer for Sale any type of Intoxicating Liquor and includes the operation of a Bar on a licensed Premises as well as portable Bars.

### **39-30 CLASSES OF LIQUOR LICENSES.**

**39-30-010** The following Liquor Licenses may be issued to qualified Applicants:

- A. *Intoxicating Liquor Producer License.* Allows the Licensee to produce wine, beer, or any other Intoxicating Liquor for Sale to a Wholesaler, Retailer, or consumption On Site in a tasting room or restaurant associated with the producer.
- B. *Wholesale Liquor License.* Allows the Licensee to import and distribute Intoxicating Liquor as it is originally packaged for retail to another licensed Wholesaler or Retailer.
- C. *Packaged Retail Liquor License.* Allows for the Sale of Intoxicating Liquor at a retail establishment by the Licensee for consumption off the Premises.
- D. *On-Site Liquor License.* Allows for the Sale of Intoxicating Liquor by the Licensee for consumption on the Premises. This License may be limited to beer and wine consumption only or Unrestricted.

- E. *A Fraternal, Civic, or Nonprofit Organization Liquor License.* This License may be issued to a fraternal, civic or nonprofit organization for it to Sell or provide Intoxicating Liquor. This License may be limited to beer and wine consumption only or Unrestricted.
- F. *Caterer's Liquor License.* Allows Licensee to Sell or provide Intoxicating Liquor in association with catering a Special Event and may be limited to beer and wine only or Unrestricted.
- G. *Special Events Liquor License.* Allows Licensee to Sell or provide Intoxicating Liquor in association with a Special Event, including a Special Event held outside a Licensee's Premises. This License must be obtained at least three working days before the event.

**39-30-020** The Licenses required under this Section shall be in addition to any other applicable licenses required of any Person by the Washoe Tribe or the State of Nevada.

#### **39-40 APPLICATION FOR A LIQUOR LICENSE.**

**39-40-010** *Required Process.* Every Application for a Liquor License shall be filed with the Tribal Council through the Secretary/Treasurer on an approved form. The Application must be completed in its entirety before submission and made under the penalty of perjury. Where a Liquor License is sought by the Washoe Tribe itself or by a Person wholly owned by the Washoe Tribe the requirement for an Application to the Tribal Council is waived due to the redundancy.

**39-40-020** *Application Contents.* The Application must include:

- A. The name and address of the Person(s) seeking a Liquor License, including the names and addresses of all Persons having an interest of fifteen percent (15%) or more.
- B. If the Person is a corporation, association, or other legal entity, the Application shall include the name of the Key Employee who will be actively engaged in the management of the Licensee's Business for which the License is being sought. The Application must list the names and addresses of all officers or directors of the entity, and/or stockholders holding more than fifteen percent (15%) of issued stock, if any. The Application must be verified by its president or chief executive officer seeking the License.
- C. A completed background check authorization form, including a fingerprint card. If the Person is a corporation, association, or other legal entity, the background check will be performed on the Key Employee named in the Application.

- 39-40-030**     *Renewal Application.* If the Key Employee who is actively engaged in the management of the Licensee's Business has not changed and there have been no violations of this Liquor License Code by the Licensee, the Licensee may submit the Renewal Liquor License Application prior to the expiration of the current Liquor License.
- 39-40-040**     *Incomplete Applications.* The Secretary/Treasurer shall not accept an Application that is not complete.
- 39-40-050**     *Background Checks.* Upon receipt of a completed Application, the background check of the person(s) who will be licensed will be completed and may include such additional investigation as deemed appropriate by the Tribal Council.
- 39-40-060**     *Timeframe for Decision.* The Tribal Council has 60 days from submission of a completed Application to approve or deny the Application, with the exception of Special Events Liquor Licenses.
- 39-40-070**     *Special Meetings of the Tribal Council.* The Tribal Council has 60 days from submission of a completed Application to approve or deny the Application, with the exception of Special Events Liquor Licenses, which will require a request for a special meeting of the Tribal Council.
- 39-40-080**     *Waiver of the Application Requirement for Persons Wholly Owned by the Washoe Tribe.* The Tribal Council has the authority to grant any Liquor License(s) and any renewal(s) of such Liquor Licenses to Persons that are wholly owned by the Washoe Tribe without such Person submitting an Application for a Liquor License. The purpose of these regulations is to protect the health, safety, and welfare of individuals in Washoe Indian Country by regulating Persons engaged in the Sale of Intoxicating Liquor. Based on the fact that the Washoe Tribe is already the primary decision-making authority and regulator of the business entities it wholly owns, it is not necessary for these particular Persons to submit an Application for a renewal or new Liquor License because to do so would be redundant. The Person wholly owned by the Washoe Tribe may request a Liquor License be granted by resolution at a regularly or specially scheduled Tribal Council meeting.

## **39-50    CONSIDERATION OF APPLICATION.**

- 39-50-010**     Once a completed Liquor License Application has been submitted to the Secretary/Treasurer and the background investigation is complete, the Application shall be brought before a regular or special meeting of the Tribal Council for consideration.

- 39-50-020** At the time the item is heard by the Tribal Council, the Applicant may appear in support of the Application.
- 39-50-030** The Tribal Council may consider all relevant evidence concerning the Application, including but not limited to the Applicant's prior criminal history, prior and current tax issues, previous or current Liquor Licenses, and any untruthfulness or material misstatements.
- 39-50-050** If the Application is denied, the Chairman of the Tribal Council shall sign a written notice of the decision. The written notice is considered a final decision. Upon denial of an Application, a request for reconsideration may not be resubmitted for one year unless, at the time of the denial, a majority of the Tribal Council agrees to a lesser time restriction.
- 39-50-060** If the Application is approved by the Tribal Council, the Applicant shall, before making any Intoxicating Liquor Sales and within two working days of the License being granted, pay the full annual fee associated with the Liquor License. If the structure that will be the Premises for the Liquor License has not yet been completed, the Tribal Council may issue the Liquor License subject to a certificate of occupancy being issued within 120 days.
- 39-50-070** In approving an Application, the Tribal Council has the authority to impose conditions on the License, including but not limited to issuing a Liquor License limited to beer and wine Sales or imposing other restrictions and conditions as the Tribal Council deems necessary.

## **39-60 PAYMENT OF LICENSE FEES.**

- 39-60-010** *Application Fee.* The Tribal Council shall set the fees to be charged for a Liquor License Application. The Application fee includes the cost of processing the Application including background investigations. The Application fee is in addition to any other fees required in this Title, including annual Liquor License renewal fees.
- 39-60-020** *Liquor License Fee.* The Tribal Council shall set annual fees to be charged for Liquor Licenses. Liquor License fees shall be paid annually by the holder and are due January 1 of each year. Any fees paid after the fifth day of January must also pay a late fee in an amount to be set by the Tribal Council.
- 39-60-030** *Waiver of Application and Liquor License Fee(s).* The Tribal Council shall have the authority to waive the Application and/or Liquor License fee(s) for Persons that are wholly owned by the Washoe Tribe.



**39-60-040**     *Fees for Reconsideration of a Denied Application.* Any fees required by this Title shall be resubmitted where the Applicant requests reconsideration of a denied Application.

**39-60-050**     *Non-Refundable Fees.* All fees due hereunder are non-refundable.

**39-60-060**     *Nonpayment of Fees.* It shall be grounds for the immediate suspension of a Liquor license if any fee is not paid within 30 days of the due date. The Chairman of the Tribal Council is authorized to immediately suspend the Liquor License, and set the matter for a revocation hearing before the Council.

#### **39-70   LICENSE RESTRICTIONS.**

**39-70-010**     All Licensees must adhere to and follow this Title, the Washoe Tribe's Law and Order Code, and any applicable Federal law and regulations.

**39-70-020**     Any Liquor license that is inactive for more than six (6) consecutive months per calendar year shall be deemed terminated. The Licensee(s) must reapply if they wish to be considered for another Liquor license, pay an inactive license fee, and pay all other fees associated with a new license Application.

**39-70-030**     *Transfer of Name on Liquor License or Sale of Business.*

A. If the current Liquor License holder is no longer associated with the Person granted the Liquor License, then the Person may, within ten (10) working days of the Licensee's departure, transfer the name on the Liquor License. The new person to hold the License must complete an Application, have a background check, and pay all applicable fees before submission to the Tribal Council for consideration. The business may continue to Sell Intoxicating Liquor pending approval by the Council unless it is determined that the proposed Liquor Licensee has a significant criminal record, in which event the Tribal Council may immediately suspend Liquor sales at the location until a suitable Licensee candidate has applied.

B. If the Premises for which a Liquor License has been issued was sold or leased, the new owner or lessee has five (5) working days, from the date the Sale or lease became effective, to submit a completed Application for a Liquor License to the Secretary/Treasurer. If it is determined, prior to submitting the Application to the Tribal Council for review, that the proposed Licensee has a significant criminal record, then the Tribal Council has the absolute authority to stop Liquor sales at that location pending review of the Application by the Tribal Council.

C. A new Liquor License is required for a change of location for the Licensee.

D. No Liquor License granted under the provisions of this Title may be transferred by the Licensee to any other Person except as provided herein.

**39-70-040** If the Licensee ceases to need the Liquor License(s), there shall be no refund of any fees.

**39-70-060** All Liquor Licenses must be posted in a conspicuous location that is accessible by members of the public. All Licensees must open their Premises for inspection, upon demand, to any on-duty member of the Washoe Tribe's Police Department or any other authorized government representative.

**39-70-070** *Prohibited Activities.* The following activities are prohibited:

- A. Furnishing or Selling Liquor to a person under the age of 21.
- B. Furnishing or Selling Liquor without the proper Liquor License.
- C. Failure to pay the annual Liquor License fee when due.
- D. Employing a person under the age of 21 years to distribute or Sell Liquor.
- E. A Packaged Retail Liquor Licensee allowing the consumption of Liquor on the Premises.
- F. Any violation of this Title, applicable federal law, the terms and conditions of a Liquor License, or any condition imposed thereon by the Tribal Council.
- G. Making an untruthful statement or making a material misrepresentation in applying for a Liquor License or in any oral or written statement to the Tribal Council in connection with the License.

**39-70-080** *Suspension or Revocation of Liquor License.*

- A. The Tribal Council reserves the right to suspend, revoke, or place conditions, including civil penalties of up to \$2,500.00, on any Liquor License it has granted based on finding of a violation of this Title by the Licensee.
- B. Upon receipt of a written allegation that a Licensee has violated any provision of this Title, the Tribal Council shall provide written notice of the



allegation to the Licensee. If the Licensee cannot be located or is avoiding service, it shall suffice that a registered letter be sent to the Licensee's address. The Tribal Council will schedule a hearing on the allegations no less than twenty (20) days from the date the notice of the allegations is sent. Service shall be deemed complete upon the date of mailing.

- C. The Washoe Tribal Police Department shall investigate the alleged violation and shall create a report detailing the investigation that shall be provided to the Tribal Council and the Licensee(s). The investigation shall state whether the allegations are sustained but shall not make a recommendation as to the appropriate penalty.
- D. The Licensee(s) and/or his representative may present evidence, witnesses, or testimony to the Tribal Council.
- E. After the conclusion of the hearing, the Tribal Council will deliberate in closed session and make a decision. The Council may consider, in their deliberations, the seriousness of the offense, the history of the Licensee, and any other relevant factors.
- F. The Tribal Council will make written findings, which will be provided no more than five (5) days after the hearing and which must be supported by a majority of the Tribal Council members present. The findings and orders of the Tribal Council shall be final.
- G. The Licensee must immediately comply with any orders of the Tribal Council, including the payment of any fine within five (5) working days of the decision.
- H. If a Liquor license is revoked hereunder, that Person cannot reapply for a Liquor License for three (3) years from the date of the decision by the Tribal Council.

**39-70-090**     *Emergency Suspension of Liquor License.* Notwithstanding any other provision herein, any Liquor License provided by the Washoe Tribe is subject to emergency suspension by the Washoe Tribe Police Department, without notice, following a determination by the Chief of Police that continued operation of the licensed Premises constitutes a clear and immediate threat to the safety and peace of the Washoe community. The suspension shall remain in effect for a maximum of thirty (30) days or until the next regular scheduled meeting of the Tribal Council provided that notice can be given in accord with §30-70-080(B).