

RESOLUTION OF THE PYRAMID LAKE PAIUTE TRIBE
OF THE PYRAMID LAKE RESERVATION
NIXON, NEVADA

COPY

WHEREAS, the Pyramid Lake Paiute Tribe is organized pursuant to the provisions of the Indian Reorganization Act of June 18th, 1934, and possesses attributes of sovereignty over both its members and its territory; and,

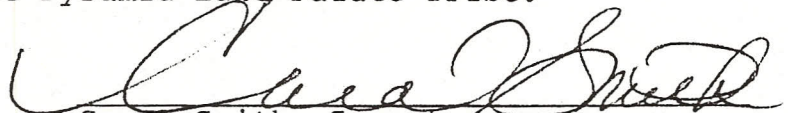
WHEREAS, in accordance with its Constitution and By-Laws, the Pyramid Lake Paiute Tribe is governed by its Tribal Council; and,

WHEREAS, the Pyramid Lake Paiute Tribal Council has determined it necessary to amend its existing Liquor Ordinance Number XXV, Chapter 5.10; Section 5.10.010 to delete therefrom certain language, to wit: "except activities on fee-patented lands in non-Indian communities or right-of-ways through the Pyramid Lake Indian Reservation,"; and,

NOW, THEREFORE, BE IT RESOLVED, that the Pyramid Lake Paiute Tribal Council hereby approves and authorizes the deletion of the following section contained in Ordinance XXV, Chapter 5.10, Section 5.10.010, that certain language, to wit: "except activities conducted on fee-patented lands and non-Indian communities or right-of-ways through the Pyramid Lake Indian Reservation."

C E R T I F I C A T I O N

It is Hereby Certified, that the foregoing Resolution of the Pyramid Lake Paiute Tribal Council, governing body of the Pyramid Lake Paiute Tribe, composed of ten members of whom 8, constituting a quorum, were present at a meeting duly held on July 10th, 1992, was adopted by the affirmative vote of 8 for and 0 against; with 0 abstentions; pursuant to the authority contained in the Constitution and By-Laws of the Pyramid Lake Paiute Tribe.


Carol Smith, Secretary
PYRAMID LAKE PAIUTE TRIBAL COUNCIL

CERTIFICATION

It is hereby certified that the foregoing Ordinance of the Pyramid Lake Paiute Tribal Council, governing body of the Pyramid Lake Paiute Tribe, composed of 10 members whom 7 constituting a quorum were present at a meeting duly held on the 07th day of August, 1982, was adopted by the affirmative vote of 7 for and 0 against, pursuant to the authority vested in it by Article VI, Section 1 of the Constitution of the Tribe.

Roy Garcia
Chairman, Pyramid Lake Paiute
Tribal Council

Della John
Secretary, Pyramid Lake Paiute
Tribal Council

AN ORDINANCE

Governing the introduction, possession and sale of liquor on the Pyramid Lake Indian Reservation.

PYRAMID LAKE TRIBAL CODE

TITLE 5

LIQUOR ORDINANCE

CHAPTER 5.01 GENERAL PROVISIONS

5.01.010 Title. This Ordinance shall be known as the Pyramid Lake Indian Reservation Liquor Ordinance.

5.01.020 Authority. This Ordinance is adopted by the Pyramid Lake Paiute Tribal Council pursuant to the provisions of 18 USC §1161 and Article VI, Section 1(i), (j) and (m) of the Constitution of the Pyramid Lake Paiute Tribe.

5.01.030 Policies.

5.01.031 The introduction, possession and sale of liquor on Indian reservations have always been clearly recognized as matters of special concern to Indian tribes and to the United States Government. The control of liquor on reservations remains exclusively subject to their legislative enactments.

5.01.032 Beginning with the creation of the Pyramid Lake Indian Reservation in 1859, the Federal Government has

respected the Pyramid Lake Tribe's determinations and activities on the Pyramid Lake Indian Reservation. Historically, the Pyramid Lake Tribe has desired to carefully control the introduction, possession and sale of liquor on their reservation. Federal law currently prohibits introduction of liquor into Indian country, (18 USC §1154) leaving tribes the decision regarding when and to what extent liquor transactions shall be permitted (18 USC §1161).

5.01.033 Present day circumstances make a complete ban on liquor within the Pyramid Lake Indian Reservation ineffective and unrealistic. However, a need still exists for strict regulation and control over liquor transactions within the reservation because of the many potential problems associated with the unregulated or inadequately regulated sale, possession and consumption of liquor. The Tribal Council finds that exclusive tribal control and regulation of liquor is necessary to achieve maximum economic benefit to the Tribe, to protect the health and welfare of tribal members, and to address specific tribal concerns relating to alcohol use on the reservation.

5.01.034 The enactment of a tribal ordinance governing liquor sales on the reservation will increase the ability of the tribal government to control reservation liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation of

the tribal government and delivery of tribal governmental services.

5.01.035 In order to provide for increased tribal control over liquor distribution and possession on the reservation and to provide for an urgently needed additional revenue source, the Tribal Council of the Pyramid Lake Indian Reservation hereby adopts this Liquor Ordinance.

CHAPTER 5.02 PYRAMID LAKE LIQUOR COMMISSION

5.02.010 Establishment. There is hereby established a Pyramid Lake Liquor Commission. The members of the Pyramid Lake Paiute Tribal Council shall serve as the Pyramid Lake Liquor Commission.

5.02.020 Powers. The Pyramid Lake Liquor Commission shall have the following powers:

5.02.021 Administer this Ordinance by exercising general control, management and supervision of all liquor sales, places of sale and sales outlets, as well as exercising all powers necessary to accomplish the purposes of this Ordinance.

5.02.022 Acpt and enforce rules and regulations in furtherance of the purposes of this Ordinance and the performance of administrative functions.

5.02.023 Employ such persons as reasonably necessary to allow the Commission to perform its duties under this Ordinance.

5.02.024 Bring suit in the appropriate Court to enforce the provisions of this Ordinance.

5.02.025 The Pyramid Lake Liquor Commission shall conduct business pursuant to this Ordinance at regular or special Council meetings and shall keep records of all proceedings of the Pyramid Lake Liquor Commission.

5.02.026 Any person subject to the provisions of this Ordinance who is injured or aggrieved by any final regulations issued by the Pyramid Lake Liquor Commission may petition the Commission for a revision of the regulations.

5.02.027 The Pyramid Lake Paiute Tribal Council shall have the authority to establish by separate Ordinance the Pyramid Lake Liquor Agency. This agency, like Pyramid Lake Indian Tribal Enterprises, shall be constituted as a separate agency and department of the Pyramid Lake Paiute Tribe with its own charter. The purpose of the Pyramid Lake Liquor Agency shall be to purchase and sell liquor for the benefit of the Pyramid Lake Paiute Tribe.

CHAPTER 5.03 APPEALS

5.03.010 Sovereign Immunity Not Waived. Nothing in this Liquor Ordinance is intended or shall be construed as a waiver of the sovereign immunity of the Pyramid Lake Paiute Tribe. The Pyramid Lake Paiute Tribe does not consent to be sued in any court with respect to this Ordinance. No employee or agent of the Pyramid Lake Paiute Tribe or of the

Pyramid Lake Liquor Commission shall be authorized, nor shall he attempt to waive the sovereign immunity of the Tribe.

5.03.020 The Challenges to the Validity of This Liquor Ordinance. All challenges to the validity of this Liquor Ordinance either generally, or as applied to any person, shall be presented to the Pyramid Lake Tribal Council. The decision of the Council on the matter is final.

5.03.030 No Other Actions Created. No private right of action by any person or group of persons, either directly against any person subject to this Ordinance, or indirectly against any Pyramid Lake Tribe official or body to compel the enforcement of the provisions of this Ordinance shall be deemed created by this Ordinance, or be within the subject matter jurisdiction of the Pyramid Lake Tribal Court or any other court. No injunction or restraining order shall issue from the Pyramid Lake Tribal Court or any other court to enforce the provisions of this Ordinance.

CHAPTER 5.04 SEVERABILITY

5.04.010 If any provision of this Ordinance or its application to any person or circumstances is held invalid by a final judgment of a court of competent jurisdiction, the invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application and to this end the provisions of this Ordinance are severable.

CHAPTER 5.05 DEFINITIONS

5.05.010 As used in this Ordinance, the following words shall have the following meanings unless the context clearly requires otherwise.

5.05.011 "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance.

5.05.012 "Beer" means any beverage obtained by the alcoholic fermentation of any infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than 4% of alcohol by volume. For the purposes of this title, any such beverage, including ale, stout and porter, containing more than 4% of alcohol by weight shall be referred to as "strong beer."

5.05.013 "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine, and beer) and all fermented spirituous, vinous, or malt liquor or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous, or malt liquor, or otherwise intoxicating; and every liquid or solid or semi-solid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all

preparations or mixtures capable of human consumption and any liquid, semi-solid, solid, substance, which contains more than 1% of alcohol by weight shall be conclusively deemed to be intoxicating.

5.05.014 "Malt Liquor" means beer, strong beer, ale, stout and porter.

5.05.015 "Sale" and "Sell" include exchange, barter, and traffic, and also include the selling or supplying or distributing by any means whatsoever of liquor or of any liquid known or described as beer, or by any name whatever commonly used to describe malt or brewed liquor or wine by any person to any person.

5.05.016 "Spirits" means any beverage which contains alcohol obtained by distillation, including wines exceeding 17% of alcohol by weight.

5.05.017 "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, etc.) or other agricultural product containing sugar to which any saccharine substances may have been added before, during or after fermentation and containing not more than 17% of alcohol by weight, including sweet wines fortified with wine spirits such as port, sherry, muscatel and angelica not exceeding 17% of alcohol by weight.

CHAPTER 5.06 TRIBAL LICENSE REQUIRED

5.06.010 Any person desiring to sell liquor within the boundaries of the Pyramid Lake Indian Reservation must

first obtain a license from the Pyramid Lake Liquor Commission. Every license issued under this Ordinance shall be subject to all conditions and restrictions imposed by this Ordinance and by the regulations in force from time to time.

5.06.020 Application for License. Any person may apply for a Pyramid Lake Liquor License. Application shall be made on an approved form provided by the Pyramid Lake Liquor Commission. The application shall be filed with the Secretary of the Pyramid Lake Paiute Tribal Council. The application shall show the following:

5.06.021 Proof satisfactory that the applicant is a person of good moral character and reputation.

5.06.022 Proof satisfactory that the applicant is financially responsible.

5.06.023 Proof satisfactory that the applicant is over 21 years of age.

5.06.024 The location and description of the premises where the sales will take place.

5.06.025 That the applicant agrees to accept and abide by the conditions of the Pyramid Lake Liquor License as set forth in Section 5.06.030 of this Ordinance and any other Ordinance or Resolution of the Pyramid Lake Paiute Tribal Council.

5.06.026 That a fee as set by resolution of the Pyramid Lake Tribal Council accompanies the application.

5.06.030 Conditions of Pyramid Lake Liquor License.

Any Pyramid Lake Liquor License issued under this Ordinance shall be subject to the following conditions:

5.06.031 Licenses shall be issued for one calendar year or the portion remaining thereof at the time the license is issued, starting with 1982.

5.06.032 If the terms of the license or location of the business so require, the licensee shall at his own expense, engage some suitable person who qualifies as eligible for employment as a law enforcement officer to maintain law and order in and about the premises where alcohol is sold.

5.06.033 The licensee shall at all times maintain an orderly, clean and neat establishment both inside and outside the premises.

5.06.034 All acts and transactions relating to the operating standards of the establishment licensed under the authority of the Pyramid Lake Liquor License shall be in conformity with the operating laws of the State of Nevada to the extent required by 18 USC §1161. A state license, however, is not required. More stringent standards of operation may be imposed upon 30 days notice to licensees by duly enacted ordinances of the Tribal Council.

5.06.035 The licensed premises shall be subject to inspection during reasonable business hours by members of the Pyramid Lake Liquor Commission or authorized representatives in

order to insure that the licensee is complying with the terms of tribal ordinances and the conditions of the license.

5.06.040 Consideration of application. The Pyramid Lake Liquor Commission may, within its sole discretion, refuse to issue a license. The Commission may, within its sole discretion and subject to this Ordinance, issue a license. For purposes of considering an application, the Commission may cause an inspection of the premises to be made and may inquire into all matters in connection with the construction and operation of the premises. Before the Commission shall issue a license, it shall give due consideration to the location of the business to be conducted under such license.

5.06.050 Posting. Every licensee shall post and keep its license in a conspicuous place on the premises.

5.06.060 Fees. License applications must be accompanied by an annual fee paid in advance. The Pyramid Lake Liquor Commission shall promulgate regulations establishing the annual fee for a Pyramid Lake Liquor License. Taxes or fees of the State of Nevada shall not apply. No licensee shall be required to maintain a liquor license from the State of Nevada.

5.06.070 Expiration. Unless sooner cancelled, every license shall expire at midnight on the 31st day of December of the year in which it was issued.

5.06.080 Suspension and Cancellation. The Pyramid Lake Liquor Commission may suspend or cancel any license for

violation of this Ordinance. Upon suspension or cancellation, all rights of the licensee to keep or sell liquor thereunder shall be suspended or terminated as the case may be. At least ten days prior to the cancellation or suspension, the Commission shall provide notice to the licensee of its intent to cancel or suspend the license. The licensee shall have the right prior to the cancellation or suspension date, to apply to the Pyramid Lake Tribal Council for a hearing to determine whether the license was rightly suspended or cancelled. The decision of the Pyramid Lake Tribal Council on the matter shall be final. Upon suspension or cancellation of the license, the licensee shall forthwith deliver up the license to the Pyramid Lake Tribal Council. Where the license has been suspended only, the Council shall return the license to the licensee at the expiration or termination of the period of suspension.

CHAPTER 5.07 TAXATION

5.07.010 The Pyramid Lake Paiute Tribal Council shall have the authority, through separate ordinance, to levy and collect a tax on each retail sale of liquor within the exterior boundaries of the Pyramid Lake Indian Reservation. Any tax imposed by the Tribal Council shall apply to all retail sales of liquor on the Reservation and shall preempt any tax imposed on such liquor sales by the State of Nevada. No municipality, city, town, county or the State of Nevada shall have the power to impose any excise tax on liquor or alcoholic beverages as defined by this title, or to govern or license the sale or

distribution thereof, in any manner within the Pyramid Lake Indian Reservation.

CHAPTER 5.08 ILLEGAL ACTIVITIES

5.08.010 No person shall engage in the manufacture or sale of liquor within the boundaries of the Pyramid Lake Indian Reservation except in conformity with this Ordinance. No person shall engage in the sale or manufacture of liquor within the boundaries of the Pyramid Lake Reservation unless duly licensed by the Tribe.

5.08.020 Illegal Sale of Liquor by Drink or Bottle. It shall be a violation of this Ordinance for any person to sell by the drink or bottle any liquor, except as otherwise provided in this Ordinance.

5.08.030 Illegal Transportation, Still or Sale without Permit. It shall be a violation of this Ordinance for any person to sell or offer for sale or transport in any manner, any liquor in violation of this Ordinance or to operate or have in his possession without a permit any mash capable of being distilled into liquor.

5.08.040 Illegal Purchase of Liquor. It shall be a violation of this Ordinance for any person within the boundaries of the Pyramid Lake Indian Reservation to buy liquor from any person other than at a store having a Pyramid Lake Liquor License.

5.08.050 Illegal Possession of Liquor, Intent to Sell. It shall be a violation of this Ordinance for any person

to keep or possess liquor upon his person or in any place, or on premises conducted or maintained by him as a principal or agent, with the intent to sell it contrary to the provisions of this Ordinance.

5.08.060 Sales to Persons Apparently Intoxicated. It shall be a violation of this Ordinance for any person to sell liquor to a person apparently under the influence of liquor.

5.08.070 Sale to Minors. It shall be unlawful:

5.08.071 For a licensee or any other person to sell, deliver, give or otherwise furnish liquor to any person under the age of 21 years, or leave or deposit any such liquor in any place with the intent that the same shall be procured by any person under the age of 21 years, or for a person under the age of 21 years to buy, receive, have in his possession, or consume liquor. It shall be the responsibility of the licensee or his employee and of anyone acting in his behalf to ascertain that the purchaser of any liquor, either by the drink or by the bottle, or any other container is 21 years of age or older.

5.08.072 For a licensee to employ a person under the age of 21 years to manufacture, sell or dispose of liquor.

5.08.073 For a licensee to employ a person under the age of 21 years in any capacity connected with the handling of liquor.

5.08.074 For a person under 21 years of age to offer or present to a licensee, employee or other person a fraudulent

or false certificate of birth or other written evidence of age which is not actually his own, or to otherwise misrepresent his age for the purpose of inducing a licensee or employee to give, sell, serve or furnish liquor contrary to law.

5.08.075 To influence or attempt to influence the sale, giving or serving of liquor to any person under 21 years of age by misrepresenting the age of such person or to order, request, receive or procure liquor from any licensee, employee or other person for the purpose of selling, giving, or serving it to a person under 21 years of age.

5.08.076 For any person under the age of 21 years to buy, sell, give, possess, deliver, serve, or to be employed for any of the foregoing or to consume any liquor within the exterior boundaries of the Pyramid Lake Indian Reservation.

5.08.080 Identification - Proof of Minimum Age.

Where there may be a question of a person's right to purchase liquor by reason of his or her age, such person shall be required to present any one of the following officially issued cards of identification which shows correct age and bears his or her signature and photograph:

- (1) Liquor Control Authority Card of Identification
- (2) Driver's License of any State
- (3) United States Active Duty Military Identification
- (4) Passport
- (5) Tribal Identification or Enrollment Card

5.08.090 Defense to Action for Sale to Minors. It shall be a defense to a suit for serving liquor to a person under 21 years of age if such a person has presented a card of identification as set forth in Section 5.08.080 and the licensee or his employee took reasonable care to verify the card of identification.

CHAPTER 5.09 PENALTIES

5.09.010 Civil Fine. Any person or entity selling, bartering or manufacturing liquor without a tribal license or otherwise violating this Ordinance shall be subject to a civil fine of not more than \$500.00 for each violation. The Pyramid Lake Tribal Council may adopt by resolution a schedule of lesser fines for each type of violation taking into account its seriousness and the threat it may pose to the general health and welfare of tribal members.

5.09.020 Criminal Penalties. Any person or entity subject to criminal prosecution by the Pyramid Lake Tribe who sells, barter or manufactures liquor without a Pyramid Lake Liquor License shall be subject to a fine of not more than \$500.00 and/or six months imprisonment for each separate violation at the discretion of the Tribal Court and pursuant to all appropriate provisions of the Law and Order Code of the Pyramid Lake Paiute Tribe. The penalties provided herein shall be in addition to any criminal penalties which may be imposed by the provisions of the Pyramid Lake Law and Order Code.

5.09.030 In no event shall the same person or entity be subjected to both civil and criminal sanctions simultaneously.

5.09.040 The Federal Indian liquor laws remain applicable to any act or transaction which is not authorized by this Ordinance and violators of this Ordinance may be subject to federal prosecution as well as legal action in accordance with Tribal Law.

5.09.050 Illegal Items Declared Contraband. All liquor within the reservation held, owned or possessed by any person or liquor outlet operating in violation of this Ordinance is hereby declared to be contraband and subject to forfeiture to the Tribe. Upon application of the Tribe, the Tribal Court Judge shall issue an order directing the appropriate law enforcement officer to seize contraband liquor within the Pyramid Lake Reservation and deliver it to the Pyramid Lake Tribal Council. A copy of the Court Order shall be delivered to the person from whom the property was seized.

5.09.051 Within two weeks following the seizure of the contraband, a hearing shall be held in Tribal Court at which time the owner or operator of the contraband shall be given an opportunity to present evidence in defense of his or her activities.

5.09.052 Adequate notice of the hearing shall be given to the person from whom the property was seized, if known. If the person is unknown notice of the hearing shall be

posted at the place where the contraband was seized and at some other public place. The notice shall describe the property seized and the time, place and cause of seizure, and give the name and place of residence, if known, of the person from whom the property was seized.

5.09.053 If, upon the hearing, the evidence warrants or no person appears as the claimant, the Tribal Court shall thereupon enter a judgment of forfeiture and order such articles turned over to the Pyramid Lake Tribal Council for disposition.

5.09.060 Injunctive Relief. The Tribal Court may, in addition to other penalties set forth in this Ordinance, grant such other relief as is necessary and proper to enforce this Ordinance including but not limited to injunctive relief against acts in violation of this Ordinance.

5.09.070 Exclusion. Any person not a member of the Pyramid Lake Paiute Tribe who shall be found in violation of this Ordinance shall be subject to exclusion from the Pyramid Lake Indian Reservation pursuant to Chapter 3.18 of the Law and Order Code of the Pyramid Lake Paiute Tribe.

CHAPTER 5.10 MISCELLANEOUS PROVISIONS

5.10.010 Jurisdiction. The jurisdiction of this Ordinance shall extend to all activities conducted within the exterior boundaries of the Pyramid Lake Indian Reservation except activities conducted on fee patented lands in non-Indian communities or rights of way through the Pyramid Lake Indian

Reservation. Nothing in this Ordinance shall be construed to require or authorize the criminal trial and punishment by the Pyramid Lake Tribal Court of any non-Indian except to the extent allowed by any applicable present or future act of Congress or any applicable decision of a United States Federal Court.

5.10.020 Application of 18 USC §1161. All liquor transactions within the Pyramid Lake Reservation shall conform to this Ordinance and to the laws of the State of Nevada to the extent required by 18 USC §1161.

5.10.030 Amendments. All provisions of this Ordinance are subject to proper revision, repeal or amendment in accordance with the Constitution and By-Laws of the Pyramid Lake Paiute Tribe.

5.10.040 Repeal of Ordinances. Ordinance No. IX as amended is hereby repealed effective the date of this Ordinance. All previous tribal resolutions in any way dealing with the sale of liquor are hereby repealed. No other tribal ordinance or resolution shall be applied in a manner inconsistent with the provisions of this Ordinance.

5.10.050 Effective Date. This Ordinance shall be effective on such date as the Secretary of the Interior certifies this Ordinance and publishes the same in the Federal Register.