



SQUAXIN ISLAND TRIBE

Route 1, Box 257 Shelton, Washington 98584

Calvin J. Peters - Chairman
Bryan A. Johnson - Vice Chairman
Sally Ann Norman - Secretary

Wesley Whitener - Treasurer
John Krise - Councilman
Florence Sigo - Tribal Historian

RESOLUTION NO. 79-48 of the SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe of Indians by the authority of the Constitution and By-Laws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965; and

WHEREAS, the Squaxin Island Tribal Council has enacted Resolution No. 79-40, on Aug. 3, 1979 providing for the sale, through Tribal enterprise, of liquor on the Squaxin Island Reservation at the Tribal Center; and

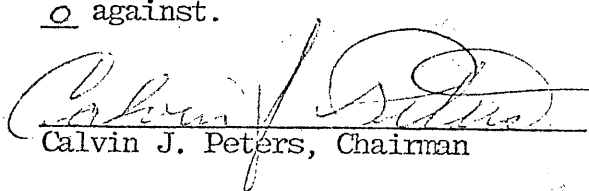
WHEREAS, the Squaxin Island Tribal Council deems it necessary to consult the General Council of the Squaxin Island Tribe on issues of great importance such as the question of liquor sales on the Reservation;

NOW THEREFORE BE IT RESOLVED, that, pursuant to Article IX of the Squaxin Island Tribal Constitution, the Tribal Council hereby refers Resolution No. 79-40, and the accompanying Ordinance to the General Council for its consideration; and


BE IT FURTHER RESOLVED, that the Squaxin Island Tribal Council shall consider said Resolution to be in effect only if a majority of the General Council approves it in an election wherein at least 50 percent of the eligible voters of the General Council votes.

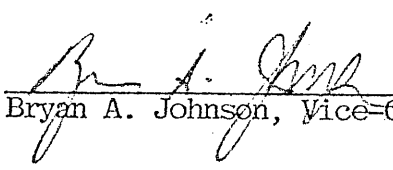
CERTIFICATION

The Squaxin Island Tribal Council does hereby certify that the above Resolution was adopted at a regular meeting of the Squaxin Island Tribal Council held on this 20th day of September, 1979; at which time a quorum was present and passed by a vote of 3 for, 0 against.


Calvin J. Peters, Chairman

ATTESTED BY:


Mike Peters, Secretary


Bryan A. Johnson, Vice-Chairman

SQUAXIN ISLAND LIQUOR ORDINANCE

Section 1. Findings and Purpose.

1.1 The introduction, possession, and sale of liquor on Indian Reservations have, since Treaty time, been clearly recognized as matters of special concern of Indian Tribes and the United States Federal Government. The control of liquor on reservations remains exclusively subject to their legislative enactments.

1.2 Beginning with the Treaty of Medicine Creek, Art. IX, to which the ancestors of the Squaxin Island Indian Tribe were parties, the Federal Government has respected this Tribe's determination regarding liquor related transactions and activities on the Squaxin Island Indian Reservation. At Treaty time, the Squaxin Island Tribe's ancestors desired to exclude "ardent spirits" from their Reservation. This desire was honored by Congress in the enactment of 18 U.S.C. §1154 and 18 U.S.C. §1161, which prohibit the introduction of liquor into the Squaxin Island Indian Reservation unless and until the Squaxin Island Indian Tribe has decided when and to what extent liquor transactions shall be permitted. The Squaxin Island Tribe has decided to open the Squaxin Island Indian Reservation to the possession, consumption, and sale of liquor by enacting Resolution No. 79-40, August 3, 1979, and to exert strict Tribal Regulations and control over all aspects of liquor sale, distribution, and use on the Squaxin Island Reservation through this ordinance.

1.3 The enactment of the Tribal ordinance governing liquor sales on the Squaxin Island Indian Reservation and providing for exclusive purchase and sale through a tribally owned and operated establishment 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 essential Tribal Governmental services and the delivery of essential Tribal social services.

1.4 Tribal regulation of the sale, possession, and consumption of liquor on the Squaxin Island Indian Reservation is necessary to protect the health, security, and general welfare of the Squaxin Island Tribe. In

order to further these goals and to provide for an urgently needed additional source of governmental revenue, the Squaxin Island Tribal Council adopts this liquor ordinance to be known as the "Squaxin Island Liquor Ordinance." This ordinance shall be liberally construed to fulfill the purposes for which it has been adopted.

Section 2. Definitions. As used in this ordinance, the following words shall have the following meanings unless the context clearly requires otherwise.

2.1 "Alcohol" 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.

2.2 "Alcoholic Beverage" Is synonymous with the term liquor as defined in §2.5 of this ordinance.

2.3 "Beer" Means any beverage obtained by the alcoholic fermentation of an 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 four percent of alcohol by volume. For the purposes of this title, any such beverage, including ale, stout, and porter, containing more than four percent of alcohol by weight shall be referred to as "Strong Beer."

2.4 "Board" Means the Squaxin Island Indian Liquor Board as constituted under this ordinance.

2.5 "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, or other substances, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.

2.6 "Malt Liquor" Means beer, strong beer, ale, stout, and porter.

2.7 "Package" Means any container or receptacle used for holding liquor.

2.8 "Public Place" Includes streets and alleys of incorporated cities and towns; state or county or Tribal or federal highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may not be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls, and dining rooms of hotels, restaurants, theaters, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds, and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

2.9 "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 whatsoever commonly used to describe malt or brewed liquor or wine, by any person to any person.

2.10 "Spirits" Means any beverage which contains alcohol obtained by distillations, including wines exceeding seventeen percent of alcohol by weight.

2.11 "Tavern" Means any establishment with special space and accommodations for sale by the glass and for consumption on the premises, of beer, as herein defined.

2.12 "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 seventeen percent of alcohol by weight.

Section 3. Squaxin Island Indian Liquor Board.

3.1 Liquor Board Established - Composition. There is hereby established a Squaxin Island Indian Liquor Board. The Board shall consist of three (3) members serving staggered terms of three (3) years, each commencing on the date of the annual General Council Meeting, and selected by vote of the Squaxin Island Tribal Council as follows:

(1) Two (2) members shall be members of the Squaxin Island Tribal Council

(2) One (1) member shall be a member of the Squaxin Island Indian Tribe, who is not directly involved in the commercial sale of liquor on the Reservation and who is not a member of the Squaxin Island Tribal Council at the time of his or her selection; Provided, however, that no position on the Board shall become vacant by virtue of the individual holding that position failing to be re-elected to the Squaxin Island Tribal Council unless that individual shall specifically resign from the Board. No person shall serve on the Board who has ever been convicted of a felony or misdemeanor involving dishonesty.

3.2 Vacancies.

All vacancies occurring on the Board shall be filled by a vote of the Squaxin Island Tribal Council.

3.3 Initial Board.

The initial terms of office of the Board shall be as follows:

- (1) One (1) member shall serve a three-year (3) term;
- (2) One (1) member shall serve a two-year (2) term;
- (3) One (1) member shall serve a one-year (1) term;

The members serving respective terms shall be determined by lot after the members have been selected by the Squaxin Island Tribal Council. The members shall serve as interim members from the time of their selection until the next General Council Meeting.

3.4 Board Compensation.

The members of the Board shall serve without compensation unless otherwise directed by the Squaxin Island Tribal Council, but may receive reimbursement for necessary expenses and mileage actually incurred in the performance of their duties.

3.5 Removal.

Members of the Board shall serve in good behavior and shall be subject to removal only by the Squaxin Island Tribal Council and only after a full hearing before the Tribal Council at which the member shall be afforded the right to notice of the specific charges against him, to present evidence in his own behalf, and to cross-examine witnesses against him. The member may be represented by counsel or a spokesman admitted to the Squaxin Island Tribal Court, but such representation shall not be paid for out of funds under the control of the Board. If the Board member who is the subject of the hearing is also a member of the Squaxin Island Tribal Council, he shall be disqualified from voting as a

member of the Squaxin Island Tribal Council at the hearing. Removal shall be by a simple majority of the five members of the Council. Grounds for removal shall include, but not be limited to:

- (1) Conviction of a felony or a crime involving dishonesty;
- (2) Misuse of Board funds;
- (3) Receiving improper gratuities or payments from liquor salesmen or wholesalers;
- (4) Gross neglect of duty; and
- (5) Failure to comply with a proper directive of the Squaxin Island Tribal Council.

3.6 Board Reports to Squaxin Island Tribal Council.

The Board shall prepare an annual written report on its activities to be submitted to the Squaxin Island General Council at its Annual Meeting. The report shall include an accounting of all receipts and expenditures and such other information as shall seem appropriate to the Board or as shall be directed by the Squaxin Island Tribal Council. The Board may submit such other further reports as it deems appropriate or as the Squaxin Island Tribal Council shall direct.

3.7 Board - Powers and Duties.

The Board shall have the following powers and duties:

- (1) To publish and enforce rules and regulations adopted by the Squaxin Island Tribal Council governing the sale, manufacture, and distribution of alcoholic beverages on the Squaxin Island Indian Reservation;
- (2) To employ managers, warehousemen, accountants, security personnel, drivers, and such other persons as shall be reasonably necessary to allow the Board to perform its functions. Such employees shall be hired through the Squaxin Island Tribal Personnel Office, and, although paid by and responsible to the Board, shall be considered Tribal employees for all other purposes;
- (3) To lease or construct appropriate warehouse facilities;
- (4) To bring suit in the appropriate court with the consent of the Squaxin Island Tribal Council. The Board shall not, without the specific consent of the Squaxin Island Tribal Council, waive the Board's or the Squaxin Island Tribe's immunity from suit;
- (5) To contract with liquor wholesalers and distributors for the purchase and delivery of alcoholic beverages;

(6) To make such reports as may be required by the Squaxin Island Tribal Council;

(7) To take orders, receive, and distribute shipments of alcoholic beverages, establish wholesale base prices, collect taxes and fees levied or set by the Squaxin Island Tribal Council, and to keep accurate records, books, and accounts;

(8) To exercise such other powers as are delegated by the Squaxin Island Tribal Council.

3.8 Board - Prohibited Actions.

In the exercise of its powers and duties, neither the Board nor any of its members shall:

(1) Accept any gratuity, compensation or other thing of value from any liquor wholesaler or distributor or from any licensee, applicant, or prospective applicant, except as he is duly established for licensing;

(2) Waive the immunity of the Board or the Squaxin Island Indian Tribe from suit without the express consent of the Squaxin Island Tribal Council.

3.9 Warehouse.

The Board shall purchase, lease, or construct an appropriate secure warehouse located on the Squaxin Island Indian Reservation for the receipt, storage, and distribution of alcoholic beverages.

3.10 Inspection.

The premises of the Board shall be open by its employees for inspection by the Board, or by any member of the Squaxin Island Tribal Council directed by the Squaxin Island Tribal Council to so inspect, at all reasonable times for the purposes of ascertaining whether the rules and regulations of the Board and the liquor laws of the Squaxin Island Indian Reservation are being complied with.

Section 4. Sales.

4.1 Only Tribal Sales Allowed.

No sales of alcoholic beverages shall be made within the exterior boundaries of the Squaxin Island Indian Reservation, except at a Tribal liquor store.

4.2 All Sales Cash.

All sales at Tribal liquor stores shall be on a cash only basis and no credit shall be extended to any person, organization, or entity.

4.3 All Sales for Personal Use.

All sales shall be for the personal use of the purchasers, and resale for profit of any alcoholic beverage purchased at a Tribal liquor store is prohibited within the Squaxin Island Indian Reservation. Any person who purchases an alcoholic beverage at a Tribal store and resells that beverage for profit, whether in the original container or not, shall be guilty of an offense and punished in accordance with §6.15 herein.

4.4 Restricted Tribal Property.

The entire stock of liquor and alcoholic beverages referred to under this ordinance shall remain restricted Tribal property owned and possessed by the Squaxin Island Indian Tribe until sold.

4.5 Sellers and Dealers Must Be 21 Years of Age.

All persons involved in the sale or distribution of liquor on the Squaxin Island Indian Reservation shall be at least 21 years of age.

Section 5. Taxation.

5.1 Tax Imposed.

There is hereby levied and shall be collected a tax on each retail sale of alcoholic beverages on the Reservation in the amount of 15% of the retail sales price. The tax imposed by this section shall apply to all retail sales of liquor on the Reservation and shall pre-empt any tax imposed on such liquor sales by the State of Washington. No municipality, city, town, county, nor the State of Washington shall have any power to impose an 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 Squaxin Island Indian Reservation.

5.2 Distribution of Taxes.

All taxes from the sale of alcoholic beverages on the Squaxin Island Indian Reservation by or through the Board shall be paid over to the Tax Treasury of the Squaxin Island Tribal Council and be subject to distribution by the Squaxin Island Tribal Council in accordance with its usual appropriation procedures for essential governmental and social services.

Section 6. Illegal Activities.

6.1 Liquor Stamp - Contraband.

No alcoholic beverage shall be sold on the Squaxin Island Indian Reservation unless there shall be affixed to the package a stamp of the Board. Any sales made in violation of this provision shall be a violation of this ordinance and shall be punishable as set out in §6.15 herein. All

alcoholic beverages not so stamped which are sold or held for sale on the Squaxin Island Indian Reservation are hereby declared contraband and, in addition to any penalties imposed by the Court for violation of this section, shall be confiscated and forfeited in accordance with the procedures set out in the Squaxin Island Rules of Civil Procedure.

6.2 Proof of Unlawful Sale - Intent.

In any proceeding under this ordinance, proof of one unlawful sale of liquor shall suffice to establish prima facie the intent or purpose of unlawfully keeping liquor for sale in violation of this ordinance.

6.3 Use of Seal.

No person other than an employee of the Board shall keep or have in his possession any legal seal prescribed under this ordinance unless the same is attached to a package which has been purchased from a Tribal liquor store, nor shall any person keep or have in his possession any design in imitation of any official seal prescribed under this ordinance or calculated to deceive by its resemblance to any official seal, or any paper upon which such design is stamped, engraved, lithographed, printed or otherwise marked. Any person who willfully violates any provision of this section shall be guilty of an offense.

6.4 Illegal Sale of Liquor by Drink or Bottle.

Except as otherwise provided in this ordinance, any person who sells by the drink or bottle any liquor, shall be guilty of an offense.

6.5 Illegal Transportation, Still, or Sale Without Permit.

Any person who shall sell or offer for sale or transport in any manner, any liquor in violation of this ordinance, or who shall operate or shall have in his possession without a permit, any mash capable of being distilled into liquor, shall be guilty of an offense.

6.6 Illegal Purchase of Liquor.

Any person within the boundaries of the Squaxin Island Indian Reservation who buys liquor from any person other than at a properly authorized Tribal liquor store shall be guilty of an offense.

6.7 Illegal Possession of Liquor - Intent to Sell.

Any person who keeps or possesses 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, shall be guilty of an offense.

6.8 Sales to Persons Apparently Intoxicated.

Any person who sells liquor to a person apparently under the influence of liquor shall be guilty of an offense.

6.9 Drinking In a Public Conveyance.

Any person engaged wholly or in part in the business of carrying passengers for hire, and every agent, servant, or employee of such person who shall knowingly permit any person to drink any liquor in any public conveyance shall be guilty of an offense. Any person who shall drink any liquor in a public conveyance shall be guilty of an offense.

6.10 Furnishing Liquor to Minors.

Except in the case of liquor given or permitted to be given to a person under the age of twenty-one (21) years by his parent or guardian, for beverage or medicinal purposes, or administered to him by his physician or dentist for medicinal purposes, no person under the age of twenty-one (21) years shall consume, acquire, or have in his possession any alcoholic beverages except when such beverage is being used in connection with religious services. No person shall permit any other person under the age of twenty-one (21) to consume liquor on his premises or on any premises under his control except in those situations set out in this section. Any person violating this section shall be guilty of an offense.

6.11 Sales of Liquor to Minors.

Any person who shall sell any liquor to any person under the age of twenty-one (21) years shall be guilty of an offense.

6.12 Unlawful Transfer of Identification.

Any person who transfers in any manner an identification of age to a minor for the purpose of permitting such minor to obtain liquor shall be guilty of an offense; Provided, that corroborative testimony of a witness other than the minor shall be a requirement of conviction.

6.13 (Reserved)

6.14 Possession of False or Altered Identification.

Any person who attempts to purchase an alcoholic beverage through the use of false or altered identification which falsely purports to show the individual to be over the age of 21 years shall be guilty of an offense.

6.15 General Penalties.

Any Indian person guilty of a violation of this ordinance for which no penalty has been specifically provided shall be liable upon conviction in Tribal Court for imprisonment for a period of not to exceed six (6) months, or a fine of not to exceed Five Hundred Dollars (\$500.00),

or both such fine and imprisonment.

6.16 Identification - Proof of Minimum Age.

Where there may be a question of a person's right to purchase liquor by reason of his 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 signature and photograph:

- (1) Liquor control authority card of identification of any state.
- (2) Driver's license of any state or "Identi-Card" issued by any State Department of Motor Vehicles.
- (3) United States Active Duty Military Identification.
- (4) Passport.
- (5) Squaxin Island Tribal Identification.

6.17 Illegal Items Declared Contraband.

Alcoholic beverages which are possessed contrary to the terms of this section are declared to be contraband. Any officer who shall make an arrest under this section shall seize all contraband which he shall have the authority to seize consistent with the power of the Squaxin Island Tribe and the applicable provisions of 25 U.S.C. §1302.

6.18 Preservation and Forfeiture.

Any officer seizing contraband shall preserve the contraband in accordance with the provisions established for the preservation of impounded property in the Squaxin Island Civil Procedure Ordinance. Upon conviction, the guilty party shall forfeit all right, title and interest in the items seized and when the conviction shall become final; the items shall be disposed of as provided for in the ordinance; Provided, however, that the items so forfeited shall not be sold to any person not entitled to possess them under applicable law.

Section 7. Abatement.

7.1 Declaration of Nuisance.

Any room, house, building, boat, vessel, vehicle, structure, or other place where liquor is sold, manufactured, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this ordinance or of any other Tribal law relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, and all property kept in and used in maintaining such place, are hereby declared to be a common nuisance.

7.2 Institution of Action.

The Chairman of the Board shall institute and maintain an action in the Tribal Court in the name of the Tribe to abate and perpetually enjoin any nuisance declared under this title. The plaintiff shall not be required to give bond in the action, and restraining orders, temporary injunctions, and permanent injunctions may be granted in the cause as in other injunction proceedings, and upon final judgment against the defendant, the Court may also order the room, house, building, boat, vessel, vehicle, structure, or place closed for a period of one (1) year or until the owner, lessee, tenant, or occupant thereof shall give bond of sufficient surety to be approved by the Court in the penal sum of not less than One Thousand Dollars (\$1,000.00), payable to the Tribe and conditioned that liquor will not be thereafter manufactured, kept, sold, bartered, exchanged, given away, furnished, or otherwise disposed of thereof in violation of the provisions of this ordinance or of any other applicable Tribal law, and that he will pay all fines, costs, and damages assessed against him for any violation of this ordinance or other Tribal liquor laws. If any condition of the bond be violated, the whole amount may be recovered as a penalty for the use of the Tribe. Any action taken under this section shall be in addition to any other penalties provided in this ordinance.

7.3 Abatement.

In all cases where any person has been convicted of a violation of this ordinance or Tribal laws relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, an action may be brought in Tribal Court to abate as a nuisance any real estate or other property involved in the commission of the offense, and in any such action a certified copy of the record of such conviction shall be admissible in evidence and prima facie evidence that the room, house, vessel, boat, building, vehicle, structure, or place against which such action is brought is a public nuisance.

Section 8. Profits.

8.1 Distribution of Profits.

The gross proceeds collected by the Board for all sales of alcoholic beverages on the Squaxin Island Indian Reservation shall be distributed as follows:

- (1) For the cost of goods;
- (2) For the payment of taxes provided in §5 of this ordinance;
- (3) For the payment of all necessary personnel, administrative costs, and legal fees for the Board and its activities;
- (4) The remainder shall be turned over to the Enterprise Fund of the Squaxin Island Tribal Council in quarterly payments and expended by the Squaxin Island Tribal Council.

8.2 Expenditure of Profits.

All profits transferred to the Enterprise Fund by the Board shall be expended by the Squaxin Island Tribal Council for the general governmental services of the Tribe.

Section 9. Severability and Effective Date.

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

9.2 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.

9.3 Inconsistent Enactments Rescinded.

Any and all prior enactments of the Squaxin Island Tribal Council which are inconsistent with the provisions of this ordinance are hereby rescinded.

9.4 Disclaimer.

Nothing in this ordinance shall be construed to require or authorize the criminal trial and punishment by the Squaxin Island 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 the United States Supreme Court.

9.5 Application of 18 U.S.C. §1161.

All acts and transactions under this ordinance shall be in conformity with this ordinance and in conformity with the laws of the State of Washington as that term is used in 18 U.S.C. §1161.