

TITLE XIX - REGULATION OF BUSINESS AND COMMERCE

CHAPTER 107 - LICENSING OF BUSINESS ACTIVITY

Sec. 107.1 Definitions

For purposes of this Title, the following terms shall have the following meanings:

- A. "Business" means any activity conducted in exchange for anything of value.
- B. "Commission" means the Santa Clara Tax Commission.
- C. "Licensee" means a Person to whom a Business License is issued.
- D. "Person" means any natural person, corporation, partnership, limited liability company, joint venture, association, club, company, estate, trust, political subdivision, government agency, or other entity of any kind.
- E. "Pueblo" means the Pueblo of Santa Clara.
- F. "Pueblo Lands" mean all lands and waters within the exterior boundaries of the Pueblo's Spanish grant and the Pueblo's reservation, and any other lands held by the United States in trust for the Pueblo, notwithstanding the issuance of any deed, patent, lease or right-of-way; but provided that until the Commission determines to exercise the full extent of jurisdiction allowed hereunder, "Pueblo Lands" shall not include any lands fee title to which is held by any non-member of the Pueblo or any non-Indian entity.
- G. "Sale" means any transaction whereby title or possession, or both, of personal property is transferred by any means whatsoever, for consideration, or any transaction whereby services are rendered for consideration. Such consideration may be either in the form of a price in money, rights, or property, or by exchange or barter, and may be payable immediately, or in the future, or by installments.
- H. "Tax Administrator" means the Tax Administrator of the Pueblo.

Enacted by Res. No. 04-28, December 7, 2004; approved by Sec'y Mar. 10, 2005.

Sec. 107.2 License Required; Exemptions

- A. Unless expressly excepted herein, every Person regularly engaged in Business on Pueblo Lands, including any Person engaged in work on Pueblo Lands lasting more than three consecutive days, or more than five days in any three-month period, and any transient vendor who locates his business on Pueblo lands for two or more consecutive days, or more than three days in any month, must hold a valid Business License issued by the Tax Administrator.

B. The following Persons are exempt from the requirement of having a Business License under the provisions of this Title:

1. A Pueblo member engaged in jewelry or pottery making or other arts and crafts production, and the sale at retail of goods made by such person, but only by such person, but this exception shall not apply if such sales are conducted on lands leased from the Pueblo or a Pueblo member for that purpose;

2. A Pueblo member engaged in livestock or other agricultural commodity production, including the sale of livestock or agricultural products produced thereby, unless such activity is conducted on lands leased from the Pueblo or a Pueblo member for that purpose;

3. Religious or charitable organizations, or other non-profit entities that are controlled by the Pueblo, if the purpose of the entity's activity is within the scope of the religious, charitable, or non-profit organization's purposes and such organization (other than a Pueblo-controlled entity) has been granted an exemption from federal income tax under Section 501(c)(3) of the United States Internal Revenue Code as it now exists or is hereafter amended; and

4. The Pueblo or any entity that is wholly owned by the Pueblo.

C. It is presumed that every Person conducting Business on Pueblo Lands is subject to licensure hereunder. The burden of substantiating an entitlement to an exemption falls on the Person claiming it.

Enacted by Res. No. 04-28, December 7, 2004; approved by Sec'y Mar. 10, 2005.

Sec. 107.3 Powers of the Tax Administrator

A. The Tax Administrator shall have the authority and the duty to review and approve or reject applications for Business Licenses, to issue Business Licenses and renewals thereof, to investigate abuses or violations of this Title, to conduct background investigations of applicants prior to issuing licenses when the Tax Administrator deems such investigations to be warranted, and otherwise to enforce the provisions of this Title.

B. The Tax Administrator may adopt rules and regulations not inconsistent with this Title to govern the procedures for the issuance of Business Licenses, the terms and conditions applicable to Business Licensees, record keeping and inspection requirements for Business Licensees, and other matters reasonably related to the licensing of Businesses within Pueblo Lands.

C. The Tax Administrator shall maintain files on each application for a Business License and the action thereon, and the subsequent history thereof, including any complaints received by the Pueblo concerning such applicant, and documents pertaining to any action

thereon; and shall perform such other functions relating to this Title as the Tribal Council may direct.

Enacted by Res. No. 04-28, December 7, 2004; approved by Sec'y Mar. 10, 2005.

Sec. 107.4 Classification of Licenses

Licenses shall be issued according to the class of Business activity being carried on, as set forth in this section.

A. Class 1 License: Non-Transient Sales of Goods and Services.

1. Any Person engaged in retail or wholesale Sales of goods or services of any kind from a fixed location on Pueblo Lands, or by means of fixed facilities located on Pueblo Lands, shall obtain a Class 1 License.

2. A Class 1 License shall not be issued unless the proposed Licensee has a right to the use of the location at or facilities by which the Business is conducted, as shown by a valid federally approved lease, easement or permit issued to such Licensee for such location, or a sublease issued pursuant to such federally approved lease, or a valid permit or assignment issued by the Pueblo.

B. Class 2 License: Transient Sales of Goods and Services.

1. Each Person selling or trading in goods or services on Pueblo Lands from a vehicle or temporary or movable stand or booth, or who is engaged in construction or other Business activity on Pueblo Lands for a limited period of time lasting longer than two consecutive days, or lasting longer than three days in any month, shall obtain a Class 2 License.

2. A Class 2 licensee operating from a vehicle or temporary or movable stand or booth may only conduct such business at locations specifically designated for such types of operations by the Pueblo, or with the express permission of the owner or assignee of the land.

Enacted by Res. No. 04-28, December 7, 2004; approved by Sec'y Mar. 10, 2005.

Sec. 107.5 Application for License

The applicant for any Business License shall apply in writing on a form provided by the Tax Administrator setting forth the following information:

A. The full name, address, and telephone number of the applicant, and, if applicable, each of its Owners (including residential address and post office box number of each); if the applicant is a corporation, partnership or other separate entity, the application shall also identify the jurisdiction within which the entity is organized; and the application shall state whether the

applicant, or the applicant's owners, is a member of the Pueblo, or if not, of any other recognized Indian tribe;

B. The exact nature of the Business that the applicant is carrying on or proposes to carry on Pueblo Lands.

C. Satisfactory evidence as to the applicant's right to use the land on which the Business is to be conducted;

D. The federal tax identification number or social security number applicable to the Business.

E. With respect to an application for a Class 2 license, the number of days and the beginning and ending dates on which the applicant plans to be engaged in Business on Pueblo lands.

Enacted by Res. No. 04-28, December 7, 2004; approved by Sec'y Mar. 10, 2005.

Sec. 107.6 Application and Renewal Fees

Persons subject to licensing under this Title shall pay a fee for a Business License or the renewal thereof, which shall be in addition to any fees required by federal regulations.

A. Class 1 License: \$25.00 per year. *475.00*

B. Class 2 License: ~~\$2.00 per day, or \$25.00 for a calendar year.~~

Enacted by Res. No. 04-28, December 7, 2004; approved by Sec'y Mar. 10, 2005; amended by Res. No. 06-43, Dec. 20, 2006; approved by Sec'y Feb. 12, 2007.

Sec. 107.7 License Term; Renewal

A. The term of each Class 1 Business License is one year from the date of issuance.

B. Application for renewal of a Class 1 Business License may be made at any time prior to the expiration of the License, on a form to be supplied by the Tax Administrator, and shall be accompanied by all required fees. A renewal application submitted after the expiration of the License shall be accompanied by a late fee in the amount of \$25.00.

C. A Class 2 Business License shall have a term of days, based on the number of days specified on the application and for which payment is submitted; but an applicant for a Class 2 Business License may purchase a license that remains valid throughout the calendar year, for as many days as the applicant wishes to engage in Business on Pueblo Lands during the year. An application for renewal of a year-long Class 2 license may be made at any time prior to the expiration of the license. A renewal application submitted after the expiration of the License

shall be accompanied by a late fee in the amount of \$25.00.

Enacted by Res. No. 04-28, December 7, 2004; approved by Sec'y Mar. 10, 2005.

Sec. 107.8 Conditions of Licenses

A. By applying for and accepting a Business License under the provisions of this Code, the applicant acknowledges that it is entering into a purely voluntary consensual relationship with the Pueblo, and accepts and submits itself to the full civil regulatory jurisdiction of the Pueblo with respect to the conduct of the applicant's business within Pueblo Lands and the applicant's property related thereto, including, but not limited to, the Pueblo's jurisdiction to impose its gross receipts and other taxes on such business, and to the jurisdiction of the Tribal Court of the Pueblo with respect to any dispute that may arise between the applicant and any other person or entity out of or in relation to the applicant's business or other activities within Santa Clara Lands. A Business Licensee's refusal to accept such terms, as evidenced by, for example, a challenge to such jurisdiction, in any written form, shall constitute grounds for immediate termination of the License.

B. No License issued hereunder shall be transferable to any other person or entity by the original Licensee.

C. No Business required to be licensed hereunder shall be conducted within the boundaries or on the premises of another Business establishment without a separate License.

D. No Person shall be licensed to deal in objects of antiquity, or in objects removed from any historic or prehistoric ruin or monument.

E. A Licensee dealing in jewelry or arts or crafts similar to objects made by members of federally recognized Indian tribes, but which were not in fact produced by a member of a federally recognized Indian tribe, must prominently display a sign, clearly visible to all patrons of such Business, with black lettering no less than three inches in height, against a white background, reading, "NOT INDIAN-MADE".

F. A License issued hereunder shall be conspicuously displayed in the place of the licensee's Business, if any, or shall be in the licensee's possession while the licensee is engaged in Business activity on Pueblo Lands, and shall be displayed to any customer who asks to see it. The Tax Administrator may authorize the issuance of licensee identification badges to be displayed by vendors, construction contractors, and other types of licensees and their employees or agents.

G. The Licensee shall be fully responsible for the entire operation of the Business and for the conduct of his or her officers, agents, and employees in relation thereto.

H. No Licensee shall engage in conduct amounting to fraud, misrepresentation or

unfair or deceptive trade practices.

I. No Licensee shall conduct its business in a manner that constitutes a breach of the peace or a threat to the health, safety or general welfare of the Pueblo or its members or visitors.

Enacted by Res. No. 04-28, December 7, 2004; approved by Sec'y Mar. 10, 2005.

Sec. 107.9 Suspension and Revocation of Business Licenses

A. The Tax Administrator may revoke or suspend a License issued under this Title, or shall refuse to issue a new or renewed License, for good cause as follows:

1. for any material misstatement of fact in an application for a License, License amendment, or License renewal;
2. for any material misstatement of facts in a record, report, or other document required to be kept and/or filed with the Tax Administrator by this Title or this Code;
3. for any violation of a License condition;
4. for any violation of this Code or any regulation promulgated hereunder, or any valid order of the Tax Administrator; or
5. for failure to pay any applicable tribal tax in the amount and at the time due.

B. The Tax Administrator shall provide written notice of intent to revoke or suspend a license by certified mail, return receipt requested, to the last known address of the licensee on the Tax Administrator's records. If the Licensee cannot be so served with notice, the Licensee may be served by publication in a newspaper of general circulation on Pueblo Lands once each week for two (2) consecutive weeks. The Licensee shall have ten (10) days from the day the notice was delivered, or from the date of last publication, to show cause in writing why the license should not be revoked or suspended.

C. In the event of an emergency, the Tax Administrator may temporarily revoke or suspend a License without prior notice for a period not exceeding thirty (30) days.

D. A Licensee may appeal a License revocation or suspension, or a refusal by the Tax Administrator to issue a License, by filing a civil action for review of the decision of the Tax Administrator in Santa Clara Tribal Court. Such action shall be filed in the same manner as any civil action in the Tribal Court, and shall name the Tax Administrator as the defendant. The sovereign immunity of the Pueblo shall not be a defense to any such action. The Tribal Court shall decide the case based on the written record before the Tax Administrator. The Court shall uphold the challenged action of the Tax Administrator unless it finds that the Tax Administrator

acted arbitrarily or capriciously, or abused his discretion, or acted contrary to Pueblo law. The Court may not in any event award any damages against the Pueblo or the Tax Administrator.

Enacted by Res. No. 04-28, December 7, 2004; approved by Sec'y Mar. 10, 2005.

Sec. 107.10 Civil Offenses

It shall be a civil offense for any Person subject to these licensing requirements to conduct Business within Pueblo Lands without first obtaining a Business License, or after such person's License has been suspended or revoked, or for more than 15 days after a License has expired, or to conduct Business in a manner not authorized by the License, or to violate any of the terms or conditions of the License, this Code, or the regulations adopted hereunder. The Tax Administrator may institute a civil action in Santa Clara Tribal Court against any Person alleged to have acted in violation of this Title.

Enacted by Res. No. 04-28, December 7, 2004; approved by Sec'y Mar. 10, 2005.

Sec. 107.11 Penalties

A Person found by the Tribal Court to have conducted Business on Pueblo Lands without a valid Business License, or otherwise in violation of the provisions of this Title, shall be assessed a civil penalty in the amount of no less than \$250.00 for each day that such violation is found to have occurred, up to a maximum of \$5,000, plus costs. The Tribal Court may also, in its discretion, order forfeiture of goods offered by such Person for sale in violation of the provisions of this Title.

Enacted by Res. No. 04-28, December 7, 2004; approved by Sec'y Mar. 10, 2005.