RST RESOLUTION NO. 77-111

WHEREAS, the Rosebud Sioux Tribe has presently in effect in its Tribal Code Chapters 17, 18, 19, 20, 21, 22 and 23 dealing generally with liquor sales on the Rosebud Indian Reservation, and

WHEREAS, the Rosebud Sioux Tribal Council is of the opinion that liquor licenses should be issued to persons and/or corporations other than the Rosebud Sioux Tribe or communities of the Rosebud Indian Reservation, and

WHEREAS, there is some questions as to whether or not the present tribal code within the aforementioned chapters would allow licenses to issue other than to the Rosebud Sioux Tribe or communities of the Rosebud Indian Reservation, and

WHEREAS, liquor sales on the Rosebud Indian Reservation are being made without any regulations by the Rosebud Sioux Tribe, and

WHEREAS, those selling liquor on the Rosebud Indian Reservation should be required to carry insurance to pay those persons harmed by intoxicated persons, and

THEREFORE BE IT RESOLVED, that the Rosebud Sioux Tribal Council repeals Chapter 17 of the Rosebud Sioux Tribal Code entitled "Alcoholic Beverages" and enacts in lieu thereof Chapter 17 entitled "Alcohol Beverages" which is attached hereto and incorporated herein as if specifically set out.

IT IS FURTHER RESOLVED, that Chapter 18 of the Rosebud Sioux Tribal Code entitled "Local Option and Community Involvement" is repealed.

IT IS FURTHER RESOLVED, that Chapter 19 of the Rosebud Sioux Tribal Code entitled "Liquor Licenses and Sales" is repealed and in lieu thereof the Rosebud Sioux Tribal Council hereby enacts Chapter 19 entitled "Liquor Licenses and Sales" which is attached hereto and incorporated herein as if specifically set out.

IT IS FURTHER RESOLVED, that Chapters 20 & 21 of the Rosebud Sioux Tribal Code entitled "Low Point Beer" is repealed.

IT IS FURTHER RESOLVED, that Chapters 22 and 23 of the Rosebud Sioux Tribal Code entitled, repectively, "Sales Tax", "Age Requirements", and "Profits, Repealing and Amendments", shall remain in effect as previously enacted.

CERTIFICATION

This is to certify that the above Resolution 77-111 was duly passed by the Rosebud Sioux Tribal Council by a vote of seventeen (17) in favor and eleven (11) opposed. The said resolution was adopted pursuant to authority vested in the Council. A quorum was present.

Edward Driving Hawk
PRESIDENT
Rosebud Sioux Tribe

ATTEST:

John King Jr.
SECRETARY
Rosebud Sioux Tribe

APPROVED 1-12-1978

Superintendent

DATE SUBMITTED 1/4/78
TO ROSEBUD AGENCY SUPT.

DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

ROSEBUD INDIAN RESERVATION, SOUTH DAKOTA

Ordinance Legalizing the Introduction, Sale, or Possession of Intoxicants

In accordance with authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2, and in accordance with the Act of August 15, 1953, Public Law 277, 83rd Congress, 1st Session, (67 Stat. 586), I certify that the following ordinance amendment relating to the application of the Federal Indian Liquor Laws on the Rosebud Indian Reservation, South Dakota was adopted on December 16, 1977, by the Rosebud Sioux Tribal Council, which has jurisdiction over the area of Indian Country included in the ordinance, reading as follows:

CHAPTER 17

Alcoholic Beverages

1. This ordinance shall be cited as the "Rosebud Sioux Tribal Liquor Ordinance", and under the inherent sovereignty of the Rosebud Sioux Tribe shall be deemed an exercise in the police power of the Tribe for the protection of the welfare, health,

business. The Commission shall be held strictly accountable for the enforcement of all the provisions of this ordinance and shall be directly responsible to the Rosebud Sioux Tribal Council.

(a) Appointment-term-qualifications-compensation. Appointments to the Commission shall be for terms of three years and shall be made by a majority vote of the Rosebud Sioux Tribal Council. Members of the Commission shall be appointed so that one member's term in office expires on January 1st of each year. Members of the Commission shall be chosen on the basis of ability and may be reappointed for one additional term. Each member appointed shall receive full compensation for their services in addition to reasonable and necessary expenses incurred while attending meetings. Vacancies shall be filled by a majority vote of the Rosebud Sioux Tribal Council only for the unexpired portion of the vacant position.

(b) Bonds. Each member of the Commission shall post a bond in such amount and with such sureties as the Tribal Council shall approve to guarantee to the Tribe the proper handling and accounting of such monies, merchandise, and other properties as may be required in the administration of this ordinance.

(c) Commission meetings. The Commission shall meet at least once per month and each year shall select one of its members as Chairman, which member shall serve in such capacity for the succeeding year. Special meetings of the Commission may be called by the chairman or when any two members file with the chairman a written request for a meeting. Written notice of the time and place of each meeting shall be given to each member of the Commission and the president of the Rosebud Sioux Tribe. All Commission meetings shall be held within the Reservation. Two members of the Commission shall

constitute a quorum.

5. The Tribal Council shall hire under contract a Director who in no event shall be a member of the Commission nor shall such a person be appointed if he or a member of his or her immediate family is a member of the Rosebud Sioux Tribe governing body or has an interest directly or indirectly in the production, transportation, or sale of intoxicating liquor or low-point beer, or in any building or property in any way used in connection with any such business. Such Director's original contract shall be for a duration of one year and may be renewed on a yearly basis thereafter. The Director's salary shall be in such amount as may be determined by the Rosebud Sioux Tribal Council. The Director shall be qualified, in a managerial ability or in experience to perform his duties; and shall act in the name of and serve at the pleasure of the Tribal Council, but shall be directly responsible to the Commission.

The Director shall devote such time as necessary to the discharge of his duties. He shall not accept or solicit, directly or indirectly, contributions or anything of value in behalf of himself, any special interest group on the reservation, any political party, or any person seeking an elective or appointive office nor use his official position to advance the candidacy of anyone seeking an elective or appointive office. The Director must physically reside on the Rosebud Reservation. A violation of this section may subject the Director to removal from office.

6. Members of the Commission, the Director and other employees of the Department shall be allowed their actual and necessary expenses while traveling on business of the Department outside of their place of residence on the Reservation, however, an itemized account of such

expenses shall be verified by the claimant and certified by the Director If such account is paid, copies of the same shall be filed with the Department and be and remain a part of its permanent records. All expenses (and salaries) of Commission members, the Director and other employees shall be paid from appropriations for such purposes.

7. Any Commission member or the Director shall be removed for cause and such removal shall not be in lieu of any other punishment that may be prescribed by the laws of the Tribe or the United States. Any member or Director so removed shall be entitled to an opportunity to be heard before the Tribal Council before removal.

8. No Commission member, Director or employee of the Department shall be personally liable for damages sustained by any person due to the act of such member, officer, or employee performed in the reasonable discharge of his duties in accordance with the provisions of this ordinance.

9. No person responsible for the administration or enforcement of this chapter and any other provision of this ordinance, shall accept or solicit donations, gratitudes, political advertising, gifts, or other favors directly or indirectly, from any liquor licensee or vendor.

10. The Commission shall have the following duties and powers:

(1) To direct the Director to perform any of the functions specified in this ordinance or by the Tribal Council;

(2) To purchase alcoholic beverages for resale by the Department in the manner set forth in this ordinance;

(3) At the direction of the Tribal Council, to establish, maintain, or discontinue Tribal liquor stores and determine the location of such stores;

(4) To rent, lease or equip any building or any land necessary to carry out the [illegible]

(5) To lease all plants and lease or buy equipment necessary to carry out the provisions of this ordinance;

(6) To appoint vendors, clerks, or agents or other employees required for carrying out the provisions of this Chapter; to dismiss such employees for cause; and to designate their title, duties and powers;

(7) To accept applications and grant licenses provided for by this ordinance;

(8) To investigate any violation of the provisions of this ordinance within twenty (20) days from receipt of information or complaint of such violation; and

(9) The Commission shall have such other powers and duties necessary and proper to carry out the provisions of this ordinance.

11. The Commission may adopt and promulgate, with the approval of the Tribal Council, such rules and regulations that are necessary to carry out the provisions of this ordinance.

12. The Rosebud Sioux Tribal Council shall, when it deems advisable to do so, direct the Tribal Liquor Commission to establish and maintain anywhere on the Rosebud Sioux Indian Reservation a tribal liquor store or stores for the sale of alcoholic beverages in accordance with provisions of this ordinance. The Commission may, from time to time, fix the prices of the different classes, varieties, or brands of alcoholic liquor and low point beer to be sold.

13. In directing the Rosebud Sioux Tribal Liquor Commission to operate a liquor store within a particular geographical area, the Rosebud Sioux Tribal Council shall indicate whether or not any other liquor stores shall be permitted to operate in the same area. If other licenses are not permitted, no other licenses shall be granted for that area.

14. Upon the granting of an application for a license by the Rosebud Sioux Tribe, all similar licenses existing in that area terminate thirty days thereafter.

thereafter for that area unless the Rosebud Sioux Tribal Council specifically permits.

15. The Rosebud Sioux Tribe shall acquire the stock, equipment, and fixtures from any licensee whose license has been terminated by reason of the tribal monopoly, such acquisition to be by purchase, condemnation, or arbitration.

16. In the conduct and management of Tribal liquor stores the Commission is empowered to employ a person who shall be under the direct supervision of the Director, and who shall observe all provisions of this ordinance and rules and regulations that may be prescribed by the Commission under this ordinance.

17. There shall be charged a filing fee of $300 for an application for a Class A license, $250 for a Class B license, and $125 for a Class C license.

18. No license for a Class A, B, or C license as the same are defined and classified under the provisions of this ordinance shall be granted to an applicant for any such license, except after public hearing, upon notice, as provided hereinafter in this Chapter.

The Commission shall make findings of fact in either rejecting or granting the application.

Any person whose application for license is rejected shall have the right to appeal such decision to the Rosebud Sioux Tribal Court. The appeal must be filed within five days after receipt of notice from the Commission. The Commission shall forthwith, upon such appeal being made, certify to the Tribal Court the complete record and findings of fact. The Court shall thereupon fix a time and place for hearing and notice of which hearing shall be given to all the parties to the appeal.

The appeal shall be conducted by the Tribal Court in the same manner as an appeal from the termination of a license.

If any reason under law exists for rejection of the application for license, the decision of the Commission must be affirmed.

19. If any tribal member of any Community as recognized by the Constitution or By Laws or Ordinances of the Rosebud Sioux Tribe shall file with the Commission a written request that he or she be notified of the time and place of hearing upon any specified application for a liquor license, the Director shall give notice to such person by certified mail and within a sufficient length of time prior to the hearing upon such application as to allow such person a reasonable opportunity to be present. For the purposes of this section, the certified letter must be deposited with the U.S. Post Office at least five (5) days before the scheduled date of the hearing.

20. The Commission shall fix the time and place for hearing upon all such applications which may come before the Commission and the Director shall publish notice once in the official newspaper of such community which notice shall be headed "Notice of Hearing Upon Application for Sale of Alcoholic Beverages," and shall state the time and place when and where such applications will be considered by the Commission and that any person interested in the approval or rejection of any such application may appear and be heard, which notice shall be published at least one week prior to such hearing. At the time and place so fixed, the Commission shall consider such applications and all objections thereto, if any, prior to final decision thereon.

21. No license granted pursuant to the provisions of this ordinance shall be transferred. If a transfer to a new location is

requested by a licensee, the licensee must make application showing all the relevant facts as to such new location, which application shall take the same course and be acted upon as if an original application. No fee shall be required of a licensee who desires to transfer to a new location, however, such licensee must pay the actual costs involved in the Notification of Hearing as published in the official newspaper.

22. Any licensee authorized to deal in alcoholic beverages upon termination of its license may at any time within twenty (20) days thereafter sell the whole or any part of the alcoholic beverages included in its stock in trade at the time of termination to any licensee under the provisions of this ordinance. A complete report of such purchase and sale must be made by both the purchaser and licensee to the Commission. At the discretion of the Commission, an additional twenty (20) days extension to sell may be granted to the licensee by the Commission.

23. Any person may file with the Commission a duly notarized complaint as to any violations of the provisions of this ordinance and immediately upon receipt thereof, the Commission shall cause the Director to make a thorough investigation and, if there is evidence to support the charge made in such complaint, the Commission must cause a revocation of the license in question and/or take other appropriate action.

24. The Commission shall upon complaint or its own motion, on due notice to such licensee, conduct a hearing and on the basis there of determine whether such license should be revoked.

25. For the purpose of conducting the hearing as prescribed above, the Commission shall have the power to subpoena witnesses and to

administer oaths. Witnesses so subpoenaed shall be paid at the then prevailing witness rate for the Rosebud Sioux Tribal Court. Criminal proceedings must be filed in Tribal Court and may be instituted by the Commission or Director as complainant against any violator.

26. If the Commission determines the license should not be revoked, it shall dismiss the complaint. If the Commission determines the license should be revoked, and revokes such license, it must make, in writing, findings of fact as to every such violation alleged in such complaint before it revokes such license. It must, in addition, by the time of the next Tribal Council meeting, make a report to the Tribal Council.

27. The Commission may, if the facts warrant, mitigate the revocation to a suspension.

When in any proceeding upon a verified complaint, the Commission is satisfied that the nature of such violation and the circumstances thereof are such that a suspension of the license would be adequate, it may suspend the license for a period not exceeding 60 days, which suspension shall become effective 24 hours after service of notice thereof upon the licensee. During the period of such suspension such licensee shall exercise no rights or privileges whatsoever under the license.

28. All hearings under the provisions of this ordinance shall be public and place of hearing shall be specifically designated in the notice of hearing. It shall be permissable, when due notice has been given, for the Commission to hold hearings in the Community Hall of the Community wherein the license is operative.

29. In any case where the Commission approves the revocation of a license, it shall forthwith make an order for such revocation

and upon service of notice thereof on the licensee all of such licensee' rights under such license shall terminate three days after such notice, except in the event of a stay on appeal.

30. Any licensee, except the Rosebud Sioux Tribe, whose license is revoked shall not for a period of two (2) years thereafter be granted any license under the provisions of this ordinance.

31. Any licensee whose license is revoked by the Commission regardless of how the proceedings were instituted may appeal from such revocation to the Rosebud Sioux Tribal Court within five (5) days after notice to the licensee of such revocation, and such appeal operates to stay all proceedings for a period of fifteen (15) days thereafter and for such an additional period of time that the Rosebud Sioux Tribal Court may in its discretion extend. Under no circumstances may the Tribal Court extend the stay for a period of more than twenty-five (25) days including the original fifteen (15) days stay period. The Commission shall forthwith, upon such appeal being made, certify to the Tribal Court the complete record in the proceedings and the Court shall thereupon fix a time and place for hearing and notice of which hearing shall be given to all concerned parties involved in the appeal.

For the purpose of appeal under this ordinance, the appeal shall be heard by all duly qualified and selected judges of the Rosebud Sioux Tribal Court sitting as one body.

32. Upon appeal the Tribal Court Judges shall review the record as certified by the Commission and shall then immediately during that Court date enter an order either affirming or reversing the decision revoking such license. In reaching its determination the Tribal Court Judges shall not hear any testimony, but shall examine the record as certified by the Commission as to whether it disclosed evidence of

any violation of law or rules or regulations charged in the complaint, and if the certified record so disclosed a violation of law, the Court is bound to affirm the decision of the Commission.

An appeal will be denied unless a clear majority of the Triba Judges sitting on the appeal vote for reversal. In the event of a tie vote, the actions of the Commission shall be affirmed and the license revoked.

33. Any person who, by himself, or through another acting for him shall keep or carry on his person, or in a vehicle, or leave in a place for another to secure, any alcoholic liquor or low-point beer with the intent to sell or dispense of such liquor or low-point beer or otherwise in violation of law, or who shall, within this reservation in any manner, directly or indirectly, solicit, take, or accept any order for the purchase, sale, shipment, or delivery of such alcoholic liquor or low-point beer in violation of law, or aid in the delivery and distribution of any alcoholic liquor or low-point beer to any person under legal age for any purpose except as authorized and permitted in this ordinance, shall be guilty of bootlegging and upon conviction thereof shall be subject to a fine of not less than $300 nor more than $500 and to a jail sentence of not less than three (3) months nor more than six (6) months or both such fine and jail sentence plus costs.

34. Any person violating any provision of this ordinance for which a specific penalty is not provided shall be punished by a fine of not less than $150 nor more than $500 or by imprisonment in the Tribal jail for not more than six (6) months, or by both such fine and imprisonment plus costs.

35. Terms used in this ordinance, unless the context other-

wise plainly requires, shall mean as follows:

(1) Alcoholic beverages-any intoxicating liquor, low-point beer or any wine.

(2) Application-a formal written request for the issuance of a license supported by a verified statement of facts.

(3) Foreign corporation-any corporation not incorporated under the laws of the Rosebud Sioux Tribe.

(4) Immediate family-shall mean and include as defined under both the Anglo-American and Lakota systems of jurisprudence but is not limited to, the following relationships: grandparents, parents, spouses, sons, daughters, grandchildren, fathers-in-law, mothers-in-law, bothers-in-law, sisters-in-law, aunts, uncles, and cousins, in addition to all lineal and collateal relatives whether in the whole or half blood or adopted.

(5) Low-point beer-any liquid commonly used or reasonably adapted to use for beverage purposes and which is produced wholly or in part from brewing of any grain or grains or malt substitute, and which contains any alcoh whatsoever but no more than three and two-tenths per centum of alcohol by weight.

(6) Low-point license-authority to sell only low-point beer.

(7) On sale-the selling of any alcohol beverages for consumption only on the premises where sold.

(8) On sale license-authority to sell any alcoholic beverage for consumption on the premises where sold.

(9) Package dealer-any person or corporation that sells or keeps for sale any alcoholic beverage for consumption off the premises where sold.

(10) Package dealer license-authority to sell any alcoholic beverage off the premises where sold.

(11) Public place-shall mean any place, building or conveyance to which the public has or is permitted access.

(12) Sale-the transfer, for consideration, of title to any alcoholic beverage.

(13) Wine-any beverage containing alcohol obtained by the fermentation of natural sugar contents of fruits or other agricultural products.

CHAPTER 18

Local Option and Community Involvement

CHAPTER 19

Liquor Licenses and Sales

1. The power to establish categories of licenses and levy taxes with respect to the sale of alcoholic beverages is vested exclusively with the Rosebud Sioux Tribal Council.

2. Classes of licenses under this chapter, with the fee for each class, shall be as follows:

(a) Class A - Package dealer - $2,500

(b) Class B - On sale - $1,500

(c) Class C - Low point - $750

3. In accepting or rejecting a request for a license, the Tribal Liquor Commission shall consider the need of the area to be served for such liquor sales, the number of extisting licensed businesse covering the area, the desires of the community within the area to be served, any law enforcement problem which may arise because of the sale of liquor, the character and reputation of the person seeking the license, suitability of the physical premises and plan of operation of the person seeking the license, and any other consideration relevant to the request.

4. Any corporation seeking a license for the sale of liquor must be a corporation organized under the laws of the Rosebud Sioux Trib provided, however, that if the applicant is a foreign corporation, it shall be eligible if, prior to the application, it has complied with the laws of the Rosebud Sioux Tribe and the United States concerning doing business within the Rosebud Reservation. Both corporations and individuals, prior to making application for a liquor license, must have secured an Indian Traders license.

6. Applications for licenses under this chapter shall be submitted to the Tribal Liquor Commission as specified and established. The Commission shall have absolute discretion to approve or disapprove the same in accordance with the provisions governing its administration.

7. Every application for a license, unless exempted by the Tribal Council for good reason, must be accompanied by a bond, which shall become operative and effective upon the issuing of a license unless the licensee already has a continuing bond in force. The bond shall be in the amount of $10,000 and must be on a form approved by the Tribal Liquor Commission. It shall be conditioned that the licensee will faithfully obey and abide by all the provisions of this ordinance and all existing laws relating to the conduct of its business and will promptly pay to the Rosebud Sioux Tribe when due all taxes and license fees payable by it under the provisions of this ordinance and any costs assessed against it in any judgment for violation of the terms of this ordinance.

All bonds required by this ordinance shall be with a corporate surety as surety, or shall be by cash deposit. If said bond is placed by cash, it shall be kept in a separate escrow account within a legally chartered bank.

8. Every application for a license must be accompanied by a policy of insurance indicating that the insurance company will promptly pay all sums, not exceeding $100,000 per person, which the applicant shall become legally obligated to pay as damages because of bodily injury, property damage, or death proximately caused to himself or others by any person who becomes intoxicated by the consumption of alcohol sold by the applicant.

9. Any person injured by reason of the failure of any licensee

shall have a direct right of acting upon the bond in Tribal Court for the purpose of recovering the damage sustained by such person, which action may be prosecuted in the name of the person injured.

Any person suffering bodily injury, property damage, or death proximately caused by any person becoming intoxicated by the consumption of alcohol sold by the applicant shall have a cause of action against the applicant for such damage sustained.

10. Every application for a license under this ordinance must include an agreement by the applicant that his premises, for the purpose of search and seizure laws of the Rosebud Sioux Tribe, shall be considered public premises, and that such premises and all buildings, safes, cabinets, lockers, and store rooms thereon will at all times on demand of the Tribal Liquor Commission or a duly appointed tribal or federal policeman, be open to inspection, and that all its books and records dealing with the sale or ownership of alcoholic beverages shall be open to said person or persons for such inspection, and that the application and the license issued thereon shall constitute a contract between the licensee and the Rosebud Sioux Tribe entitling the Tribal Liquor Commission, for the purpose of enforcing the provisions of this ordinance, to inspect the premises and books at any time.

11. The period covered by licenses under this ordinance shall be for a period of one year from the date that the license was first issued.

12. The provisions of this ordinance, except as otherwise provided, shall not apply to the purchase and sale of sacramental wines. Ordained rabbis, priests, ministers, or pastors of any church or established religious organizations within the Rosebud Sioux Indian Reservation may buy sacramental wines from any person in such

quantities as necessary for their religious purposes only.

13. No licensee under this ordinance shall make any delivery of alcoholic beverages outside the premises described in the license.

14. No licensee shall buy or sell any package which has previously contained alcoholic beverages sold under the provisions of this ordinance or refill any such package.

15. No licensee shall sell any alcoholic liquor to: (1) any person under the age of 19 years (2) any person who is intoxicated at the time or who is known to the licensee or his help to be a habitual drunkard (3) any person to whom the licensee has been requested in writing not to make any sale of alcoholic liquor, where such request is by the Tribal Court or the husband or wife of the person (4) any mentally ill or mentally retarded person.

16. No licensee shall permit any person under the age of 19 years on the premises covered by the license.

17. No licensee shall sell, serve, or allow to be consumed on the premises covered by the license, alcoholic beverages other than in the hours permitted by its license.

18. No licensee shall allow any gambling or gambling devices on its premises or permit any lewed or indecent entertainment on said premises.

19. No fighting shall be allowed on the premises covered by the license.

20. All sales of alcoholic liquor shall be for cash only. No licensee shall engage in any pawn business of any kind.

21. No licensee of an on-sale establishment shall allow to be sold any alcoholic beverages in a package, whether sealed or unsealed, or whether full or partially full. Licensee herein includes

low-point beer.

22. No licensee of a package establishment shall allow to be consumed on the premises covered by the license any alcoholic beverages

23. No licensee shall sell liquor within 500 feet of any elementary or secondary educational institution.

CHAPTER 20

Low-Point Beer

Repealed.

CHAPTER 21

Sales Tax

Repealed.

CHAPTER 22

Age Requirements

1. Furnishing Beverages To Child. It shall be unlawful to sell or give any alcoholic beverage, except low-point beer, to any person under the age of 21 years, or sell or give to any person under the age of 19 years any low-point beer. Any person who violates this section shall be guilty of an offense and upon conviction thereof shall be punished by a fine of not less than $100 nor more than $360 or by imprisonment in the Tribal Jail for not less than 30 days nor more that 180 days, or by both such fine and imprisonment with costs.

2. Purchase, Possession By Minor. It shall be unlawful for any person under the age of 21 years to purchase, attempt to purchase or possess or consume intoxicating liquor, or to misrepresent his age for the purpose of purchasing or attempting to purchase such intoxicating liquor. Any person who violates any of the provisions of this section shall be guilty of an offense and upon conviction thereof shall be punished by a fine of not less than $50 nor more than $360 or by im-

prisonment in the Tribal Jail for a period not less than 30 days nor more than 120 days, or by both such fine and imprisonment with costs.

3. Purchase or Possession of Low-Point Beer. It shall be unlawful for any person under the age of 19 years to purchase, attempt to purchase, possess or consume low-point beer, or to misrepresent his age for the purpose of purchasing or attempting to purchase low-point beer. Any person who violates the provisions of this section shall be guilty of an offense and upon conviction shall be punished by a fine of not less than $50 nor more than $360 or by imprisonment in the Tribal Jail for not less than 30 days nor more than 120 days, or both such fine and imprisonment with costs.

4. Evidence of Legal Age Demanded. Upon attempt to purchase any alcoholic beverages in any Tribal or Community liquor store by any person who appears to the vendor to be under legal age, such vendor shall demand and the prospective purchaser upon such demand shall display satisfactory evidence that he is of legal age.

Any person under legal age who represents to any vendor falsified evidence as to his age shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties specified in Section 3 above.

CHAPTER 23

Profits, Repealing, Amendments, and Miscellaneous

1. Profits From All Liquor Restricted. The expenditures of the Tribal Council of all profits realized by the

Rosebud Sioux Tribe under the provisions of this ordinance shall be limited to the following in order of priority:

(1) Programs designed to care and provide for the elderly members of the Rosebud Sioux Tribe, PROVIDED, that such expenditures shall be supplemental to any funds now provided by the Federal Government regardless of whether such funds are channeled directly from the Federal Government to the Tribe or through the State of South Dakota.

(2) Programs designed to upgrade the Law and Order Department of the Rosebud Reservation, PROVIDED, that such expenditures shall be supplemental to those provided by the Bureau of Indian Affairs and other federal agencies regardless of whether such funds are channeled directly from the Federal Government to the Tribe or through the State of South Dakota.

(3) Supplemental Grants to tribal members for education; preference to be given in the areas of special and professional education. Grants will stipulate such condictions as are deemed advisable by the Rosebud Sioux Tribal Council.

(4) Programs designed for Community Development.

2. Severability. If any section of any chapter of this ordinance or the application thereof to any party or class, or to any circumstances, shall be held to be invalid for any cause whatsoever, the remainder of the chapter and ordinance

shall not be affected thereby and shall remain in full force and effect as though to no part thereof had been declared invalid.

3. All Prior Ordinances And Resolutions Repealed. All prior ordinances and resolutions or provisions thereof that are repugnant or inconsistent to any provision of this ordinance are hereby repealed.

4. Amendment or Repeal Of Ordinance. This ordinance may be amended or repealed by only a 3/4 vote of the Tribal Council in regular session.

5. Applicable Law. All acts and transactions under authority of any liquor license issued pursuant to this ordinance shall be in conformity with the laws of the State of South Dakota and shall also be in conformance with this ordinance and the tribal license issued.

6. Disclaimer. Nothing set forth in this ordinance shall be con. to authorize criminal jurisdiction by any entity created thereunder or by the Rosebud Sioux Tribal Court over any non-Indian for any violation of any provision of this ordinance.

CERTIFICATION

It is hereby certified that the Rosebud Sioux Tribal Council is the governing body of the Rosebud Indian Reservation of South Dakota composed of 33 members, of which 30 members were present at a regular meeting held on December 16, 1977, when the foregoing ordinance was adopted by the affirmative vote of 22 in favor, 5 opposed, and 3 not voting, and of which 24 members were present at a regular meeting held on June 29, 1978, when the foregoing ordinance as amended was adopted by the affirmative vote of 24 in favor, none opposed, and none not voting

ASSISTANT SECRETARY FOR INDIAN AFFAIRS

Certification Con't.

Edward Driving Hawk
President
Rosebud Sioux Tribe

ATTEST:

John King, Jr.
Secretary
Rosebud Sioux Tribe

Procedures for Application of Temporary Beer Permit

1. Letter of application must be submitted first. (SIGNED BY AN OFFICER)
2. The letter must contain the following information:
   (a) Name of your non-profit organization or tribal organization requesting the permit.
   (b) The location where the beer will be sold.
   (c) To whom the proceeds from the sales will accrue.
   (d) What arrangements have been made to provide for security and avoidance of public disruption.
3. Each application shall be accompanied by a fee of sixty dollars ($60) for <u>each</u> day that beer will be sold.
4. Pay the liquor fee to Marlene Long in the Finance Dept.
5. The permit will be <u>typed</u> by the Revenue Dept. and <u>signed</u> by two (2) members of the liquor commission or by one (1) member of the liquor commission and Vernon "Ike" Schmidt only. <u>NO OTHER SIGNATURE(S) ARE ACCEPTABLE!!</u>
6. An approved permit needs to have the receipt for payment of the liquor fee attached and be signed by all parties. Applicant must have both the receipt and the permit or ~~they~~ you could be shut down.
7. The Liquor Commission reserves the right to limit the time of selling beer.

ROSEBUD SIOUX TRIBE
Resolution No. 95-138

WHEREAS, the Rosebud Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act of 1934 and all pertinent amendments thereof; and

WHEREAS, the Rosebud Sioux Tribe's Constitution and By-Laws, Article IV, Section 1., subsection t., to adopt resolutions regulating the procedures of the council itself and of other tribal agencies and tribal officials; and

WHEREAS, BBC, Inc., is desirous of employing sixteen year olds in Rosebud Casino, specifically in the Rosebud Room; and

WHEREAS, Chapter 19, Liquor Licenses and Sales of the Liquor Ordinance states, page 17, states: "16, No licensee shall permit any person under the age of 19 years on the premises covered by the license."; and

WHEREAS, Chapter 19, Liquor Licenses and Sales of the Liquor Ordinance be amended to: add "However, an on-sale licensee may permit persons sixteen years old or older to be employed in a department if not less than fifty percent of the gross business transacted by that establishment is from the sale of food and the licensee or an employee that is at least twenty-one years of age is on the premises when alcoholic beverages are sold or dispensed. For the purposes of this section, the term, "to be employed in a department," means to take orders for alcoholic beverages but not to deliver alcoholic beverages to customers when waiting tables. The term does not include tending bar or drawing or mixing alcoholic beverages. "Customers under the age of sixteen years may be allowed in the restaurant area when accompanied by an adult twenty one years of age or older."; and

WHEREAS, the Tribal Council held the first reading on June 22, 1995 and the second reading on August 22, 1995;

THEREFORE BE IT RESOLVED, that the Rosebud Sioux Tribal Council hereby adopts above amendment to the Liquor Ordinance, Chapter 19, Liquor Licenses and Sales.

ROSEBUD SIOUX TRIBE
Resolution No. 95-138

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

This is to certify that the above Resolution No. 95-138 was duly passed by the Rosebud Sioux Tribal Council in session for a first reading on June 22, 1995. A second reading was duly held on August 22, 1995 and approved by a vote of Sixteen (16) in favor, One (1) opposed and One (1) not voting. The said resolution was adopted pursuant to authority vested in the Council. A quorum was present.

A T T E S T :

Ben Black Bear, Jr., Secretary
Rosebud Sioux Tribe

William Kindle, President
Rosebud Sioux Tribe