

**TITLE 8 – REGULATORY CODE
PART VI – PUBLIC SAFETY
CHAPTER 6-5 – LIQUOR CONTROL ACT**

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*Legislative History: Enacted on September 27, 2001 by Resolution No. C09-81-01.
 Recodified on August 9, 2006 by Resolution No. C08-33-06.
 Amended on July 20, 2011, by Resolution No. C07-210-11 and Ordinance No. 16-11.

 Repealed and enacted new code on March 25, 2015 by Resolution No.C03-52-15 and
 Ordinance No. 06-15.

 Repealed and enacted a new code on April 9, 2015 by Resolution No. C04-61-15 and
 Ordinance No. 07-15

 Amended on June 10, 2015by Resolution No. C06-103-15 and Ordinance No.14-15*

Section 10 Short Title; Codification (8 PYTC § 6-5-10)

- (A) This Ordinance is an Ordinance of the Pascua Yaqui Tribe of Arizona, and shall be known as the "Liquor Control Act of 2015.
- (B) This ordinance shall be codified, pursuant to the Codification Ordinance as Title 8, Part VI, Chapter 6-5.

Section 20 General (8PYTC § 6-5-20)

- (A) This Ordinance is for the purpose of regulating the sale, possession and use of alcoholic liquor on the Pascua Yaqui Reservation and adjacent Trust Lands held by the United States for the benefit of the Pascua Yaqui Tribe of Arizona. The enactment of this Ordinance will enable the Pascua Yaqui Tribe of Arizona and its Tribal Government to regulate liquor distribution and possession on the Pascua Yaqui Reservation, as defined in Subsection 8 PYTC § 6-5-30 (C) below.
- (B) Subject to certain limitations, Article VI, Sections 1 (1) and 1 (0), and 1 (W) of the Constitution of the Pascua Yaqui Tribe of Arizona adopted on January 26, 1988 and approved by the Secretary of the Interior on February 8, 1988 pursuant to Section 16 of the Indian Reorganization Act on June 18, 1934 (48 Stat. 984) vests the Pascua Yaqui Tribal Council with legislative and executive authority, including the authority to adopt this Ordinance.
- (C) Jurisdiction. This Ordinance is adopted in accordance with the requirements 18 U.S.C. § 1161, and conforms with all requisite laws of the State of Arizona in accordance with the requirements of 18 U.S.C. § 1161.

Section 30 Definitions (8 PYTC § 6-5-30)

To the extent that definitions are consistent with tribal or federal laws, terms used herein shall have the same meaning as defined in Arizona Revised Statutes ("ARS") Title 4, and as defined in Administrative Rules of the Arizona Department of Liquor Licenses and Control to administer ARS, Title 4.

- (A) “Alcoholic Liquor” shall mean any alcoholic beverage containing more than one-half of one percent alcohol by volume, and every liquid or solid, patented or not, containing alcohol and capable of being consumed by a human being.
- (B) “Land Assignment” means a Land Assignment as defined in the Pascua Yaqui Tribal Code.

- (C) “Pascua Yaqui Reservation” shall mean all lands held in trust by the United States for the Pascua Yaqui Tribe of Arizona or its members, whether or not formally designated as such. It also includes any roads or rights-of-way located within the external boundaries of the Pascua Yaqui Reservation.
- (D) Whenever the words “sell” or “to sell” refer to anything forbidden by this Chapter and related to alcoholic liquor, they include:
 - (1) To solicit or receive and order;
 - (2) To keep or expose for sale;
 - (3) To deliver for value or in any way other than purely gratuitously;
 - (4) To peddle;
 - (5) To keep with intent to sell;
 - (6) To traffic in;
 - (7) To engage in a transaction for any consideration or promise obtained directly or indirectly under any pretext or by any means or to procure or allow to be procured for any other person;
 - (8) The word “sale” includes every act of selling as defined in this Subsection (C) of Section 8 PYTC § 6-5-30;
 - (9) The word “person” includes a human being or any entity that is recognized by law as having the rights and/or duties of a human being.
- (E) “Tribal” refers to the Pascua Yaqui Tribe of Arizona.
- (F) “Tribe” shall mean the Pascua Yaqui Tribe of Arizona.

Section 40 Civil Violation (8 PYTC § 6-6-40)

Any of the following shall be a civil violation in prosecutable in the Pascua Yaqui Tribal Court under this Ordinance:

- (A) For any person to sell, trade or manufacture any alcoholic liquor on the Pascua Yaqui Reservation, except as provided for in this Ordinance.
- (B) For any business establishment or person on the Pascua Yaqui Reservation to possess, transport or keep with intent to sell, barter or trade to another, any liquor, except for those commercial liquor establishments on the Pascua Yaqui Reservation licensed by the Arizona Department of Liquor Licenses and Control and approved by the Pascua Yaqui Tribal Council by resolution, provided however that a person may transport liquor from a licensed establishment consistent with the terms of the license.
- (C) For any person to consume alcoholic liquor on a public road on the Pascua Yaqui Reservation.
- (D) For any person to publicly consume any alcoholic liquor on the Pascua Yaqui Reservation at any community function, or at or near any place of business, celebration grounds, recreational areas, including ballparks, Tribal government facilities, and any other public area where minors gather for meetings or recreation, except within a licensed establishment where alcohol is sold.

- (E) For any person under the age of 21 years to buy, attempt to buy or to misrepresent their age in attempting to buy alcoholic liquor on the Pascua Yaqui Reservation.
- (F) For any person under the age of 21 years to transport, possess or consume any alcoholic liquor on the Pascua Yaqui Reservation, or to be under the influence of alcohol or to be at an established commercial liquor establishment, except as authorized under this Ordinance.
- (G) For any person to sell or furnish alcoholic liquor to any person under 21 years of age on the Pascua Yaqui Reservation.
- (H) For alcoholic liquor to be given as a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of any kind on the Pascua Yaqui Reservation.

Section 50 Criminal Violations (8 PYTC § 6-5-50)

- (A) Except as set forth in subsection (B), (C), and (D) below, it shall be a violation of this ordinance and 18 U.S.C. §1154(a) for any person not having a license issued by the State of Arizona for the sale of alcohol on the Pascua Yaqui Reservation to sell or distribute alcohol on the Pascua Yaqui Reservation, and the criminal penalties therefore shall be as established in 18 U.S.C. §1154(a).
- (B) It shall be permissible and shall not be a criminal violation of 18 U.S.C. §1154(a) for a person who is 21 years of age or older to distribute, but not sell alcohol to any other person 21 years of age or older who are both legally present at a residential Land Assignment of the Pascua Yaqui Tribe with the consent of the Land Assignment holder.
- (C) It shall be permissible and shall not be a criminal violation of 18 U.S.C. §1154(a) for a person who is 21 years of age or older to distribute but not sell alcohol to any other person 21 years of age or older, who are both present at a rental residence, or its surrounding land, by the Pascua Yaqui Tribe with the consent of the authorized tenant.
- (D) It shall be permissible and shall not be criminal violation of 18 U.S.C. §1154(a) for a person or entity having a liquor license issued by the State of Arizona for sale of liquor on the Pascua Yaqui Reservation or for any employee of a person or entity having a liquor license by the State of Arizona for sale of liquor on the Pascua Yaqui Reservation to sell or distribute alcohol on the Pascua Yaqui Reservation.

Section 60 Licensing Procedure (8 PYTC § 6-5-60)

- (A) Requests, issuances of, and renewals of licenses under this Ordinance shall be made to the State of Arizona in accordance with the standards set forth by the State of Arizona in ARS Title 4 and the regulations established by the Arizona Liquor License Control Board to administer ARS Title 4.
- (B) The Pascua Yaqui Tribal Council shall be the “local governing body” as set out in ARS § 4-201 for license applications, issuances, and renewals for locations on the Pascua Yaqui Reservation.
- (C) Licensees shall not conduct operations under those licenses, nor activities related thereto, on Tribal land assignments, which are reserved for residential purposes only.
- (D) Licenses may only be terminated by the Arizona Department of Liquor Licenses and Control and/or Arizona Liquor License Control Board in accordance with their respective laws, regulations, policies and procedures. The laws, rules and regulations of the Arizona Department of Liquor Licenses and Control Board with regard to liquor license enforcement, review, and revocation proceedings shall be applicable to Liquor Licenses on the Pascua Yaqui Reservation.

Section 110 **Effective Date (8 PYTC § 6-5-110)**

This Ordinance shall be effective on the THIRTY FIRST DAY AFTER approval by the Secretary of Interior and publication in the Federal Register as provided by 18 U.S.C. § 1161.

Section 120 **Sovereign Immunity (8 PYTC § 6-5-120)**

Nothing in this Ordinance either waives or shall be deemed or construed as a waiver of the sovereign immunity of the Tribe, nor any of its elected officials, officers, directors, employees or governmental enterprises, entities, departments or components and any respective officers, directors or employees thereof.”