

# **BISHOP PAIUTE TRIBE**

Bishop Paiute Reservation

Bishop, California

## **BUSINESS PERMIT AND TAX ORDINANCE**

Adopted: 1998

As amended May 13,2004

As amended January 12,2006

# BISHOP PAIUTE TRIBAL BUSINESS PERMIT AND TAX ORDINANCE

ORDINANCE NO. T98-04 OF 1998  
AS AMENDED MAY 13,2004 AS  
AMENDED JANUARY 12,2006

AN ORDINANCE OF THE BISHOP TRIBAL COUNCIL, AS GOVERNING BODY OF THE BISHOP PAIUTE RESERVATION, STATE OF CALIFORNIA, PROVIDING FOR THE ESTABLISHMENT OF A SYSTEM OF BUSINESS PERMITS FOR THE PRIVILEGE OF OPERATING A BUSINESS ON THE BISHOP PAIUTE RESERVATION AND FOR THE TAXATION THEREFOR.

The Bishop Tribal Council of the Bishop Paiute Reservation (hereinafter "Tribal Council") hereby ordains as follows:

The Tribal Council finds and declares that the provision of needed services to Tribal members including the areas of social and economic growth for the Tribe are a high priority. In order to fund these needed services the Tribal Council has found it necessary to implement the present system of business taxation within the Reservation boundaries. The Tribal Council also finds and declares that the goal of improving economic and social plight of Tribal members, and the fulfillment of Congress' and the Tribal Council's unique obligation toward Tribal members would be hampered by imposing on them taxation in the same manner as non-Tribal members owning and operating businesses on the Reservation. Finally, the Tribal Council recognizes that the property and business interests of Tribal members on the Reservation are legally and qualitatively distinct from other property and business interests created on Tribal land. Therefore, the Tribal Council finds and declares it necessary that businesses and property interests owned by Tribal members be exempt from the provisions of this Ordinance.

## **CHAPTER ONE: BUSINESS PERMITS**

### **SECTION 1. PERMITS GENERALLY**

It shall be unlawful to operate or maintain a utility or sell petroleum products, as those terms are defined in Chapter 2, Section 2, unless a permit to operate that utility, sell petroleum products or communication systems is first obtained from the Tribal Council in a manner as set forth in this ordinance.

## **SECTION 2. APPLICATIONS**

Application for any permit referred to in section 1 shall be filed with the Tribal Council upon a form prescribed by the Tribal Council, and shall contain such information the Tribal Council deems necessary.

## **SECTION 3. ACTION ON APPLICATIONS**

The Tribal Council, or its designee, shall take action to approve or disapprove the application for a business permit within 7 days of receiving the application. Should the application be denied for any reason, the Tribal Council or its designee shall set forth the reasons, in writing, to the applicant. The applicant shall have 30 days from the date of the notice of denial to appeal that denial, in writing, to the Tribal Council. The appeal shall set forth the reasons the applicant believes the application should be granted.

The Tribal Council, upon receipt of a written appeal of denial and request for an oral hearing by the applicant, shall provide for an oral hearing on the appeal at its next regular meeting. The action of the Tribal Council on the appeal shall be final.

## **SECTION 4. TRANSFER OF PERMITS**

No permit identified in this ordinance may be transferred, nor shall apply to any premises other than those originally specified as the location of the business activity permitted, except upon the written permission of the Tribal Council or its designee, granted upon application of the original grantee in the same manner as the original application for such permit as specified in this ordinance.

## **SECTION 5. REVOCATION AND SUSPENSION OF PERMIT.**

Any permit granted pursuant to this ordinance may be revoked or suspended by the Tribal Council or its designee for any reason which in their sole discretion is determined to be just cause, including, but not limited to, failure to pay the business permit tax as required by Chapter 2 of this ordinance. Such revocation or suspension shall be made only upon a hearing granted to the holder of the permit so revoked or suspended, held before the Tribal Council after five days notice to such permit holder, stating generally the grounds of complaint against him or her and stating the time and place where such hearing will be held. In the event such revocation or suspension is

upheld by the Tribal Council, any permit issued under this ordinance shall be surrendered to the Tribal Council.

Such revocation or suspension of any permit shall be in addition to any other penalties more specifically provided in this ordinance.

## **CHAPTER 2: BUSINESS PERMIT TAX**

### **SECTION 1. BUSINESS PERMIT TAX GENERALLY**

It is unlawful for any person, either for himself or herself or any other person, to carry on any utility taxed pursuant to this chapter on the Bishop Indian Reservation, without procuring a business permit tax certificate from the Tribal Council. The operation of any utility taxed pursuant to this chapter without a certificate from the Tribal Council shall constitute a violation of this ordinance, for each and every day that such business is so carried on.

### **SECTION 2. DEFINITIONS**

Except where the context otherwise requires, the following terms shall, for the purposes of this chapter, have the following meanings:

(a) "Gross receipts" means annual total sales of utility service within the boundaries of the Reservation, less rebates and refunds and for uncollectible accounts.

(b) "Utility" means and includes the selling or reselling, or otherwise providing

electricity, telephone, gas through gas mains, water through water mains, cable television or cellular telephone service, whether or not such utility is regulated by the California Public Utilities Commission.

(c) "Tribal Council" means the Bishop Indian Tribal Council.

(d) "Tribe" means the Bishop Paiute Tribe

(e) "Person" shall have the same meaning as in Section 4(0) of Ordinance No. 02 of 1996.

(f) "Petroleum" a liquid that is a form of bitumen or a mixture of various hydrocarbons, occurring naturally and commonly obtained by drilling,

used as fuel, or separated by distillation into gasoline, naphtha, benzene, kerosene, or paraffin.

(g) "Reservation" means the Bishop Paiute Reservation.

(h) "Billboard Communication System" shall include, but not be limited to any and all structures, scaffolding and/or surfaces that display advertising to the general public and for which fees are paid either by or to the owner of such structures, scaffolding and/or surfaces.

### **SECTION 3. IMPOSITION OF TAX**

Every person engaged in the operation of a utility shall pay a business permit tax of 2% of Gross Receipts arising from the sale of utility services on the reservation in the prior calendar year, but in no instance less than \$500 for each calendar year or fraction thereof the person holds a valid business permit issued pursuant to Chapter 1 of this Ordinance. Upon payment of the business permit tax, the permittee shall receive a tax certificate from the Tribal Council or its designee for the year in which the return is filed.

Unless otherwise stated by separate resolution subsequent to the adoption of this amended ordinance sellers of petroleum products are exempt from taxation but must still obtain a business permit.

### **SECTION 4. FRANCHISE FEE; RELIEF FROM BUSINESS PERMIT TAX**

The business permit license tax established by this chapter shall not apply to any person who has filed franchise fee returns and paid franchise fees in accordance with Ordinance No. 01 of 1996.

### **SECTION 5. WHEN TAX IS DUE**

The first year estimated tax is due within 30 days after the application for a business permit is approved by the tribal Council or its designee. Thereafter, the tax imposed by Section 3 is due and shall be paid with a return showing the computation of the tax on a form specified by the Tribal Council on MarCh 1 of each year.

## **SECTION 6. COMPUTATION OF FIRST YEAR ESTIMATED TAX**

If the business permittee is a newly commencing business on the Reservation, the permittee may estimate gross receipts for the first year the permit is in effect by any means found reasonable by the Tribal Council or its designee. If the method of estimation is determined by the Tribal Council or its designee to be unreasonable, average industry figures may be used. The amount estimated for the first year shall be prorated for the number of remaining months in the year.

## **SECTION 7. COMPUTATION OF TAX IN SUBSEQUENT YEARS**

For subsequent years, the amount of tax due shall be based on actual gross receipts for the previous calendar year as prescribed in Section 3; however, should the prior year's gross receipts have been based on less than 12 calendar months of business operations, the Tribal Council shall have the option of either 1 ) annualizing the gross receipts actually reported and assessing tax based on the annualized gross receipts; or 2) using a reasonable estimate of annual gross receipts in accordance with Section 6.

## **SECTION 8. PENALTIES**

If the taxes imposed by this chapter are not paid by the respective due dates, a penalty shall be imposed of 25% of the amount of delinquent tax due. The tax may be waived by the Tribal Council for reasonable cause.

## **SECTION 9. INTEREST**

In addition to the penalties imposed, any person who fails to remit any business tax imposed by the provision of this chapter shall pay interest at the rate of one percent per month or fraction thereof, on the amount of delinquent tax inclusive of penalties from the date on which the business tax first became delinquent until paid.

## **SECTION 10. RECORD KEEPING AND AUDIT**

The Tribal Council or its designee is authorized to examine the books, papers, tax returns and records of any person subject to this chapter for the purpose of verifying the accuracy of any return or declaration made, or if no

return or declaration was made, to ascertain the business tax due. Every person subject to this chapter shall keep and preserve for a period of three years such records as may be necessary to determine the amount of tax for which the person is liable.

## **SECTION 11. DEFICIENCY DETERMINATION**

If the Tribal Council or its designee, in the exercise of reasonable discretion, is not satisfied that the computation of the tax due is accurate, the Tribal Council or its designee may recompute and determine the amount to be paid upon the basis of facts available to it from an audit of the permittee's books and records, or upon the basis of any factual information that may come into the Tribal Council's possession. One or more deficiency determinations may be made for one or for more than one period. In making a determination, overpayments from prior periods may be offset against underpayments for any period or periods.

The Tribal Council or its designee shall give the permittee written notice of any deficiency determination, including the facts on which the determination is based.

## **SECTION 12. DEFICIENCY IF NO RETURN OF TAX FILED**

If no return of tax is filed, the Tribal Council or its designee may, in the exercise of reasonable discretion, recompute and determine the amount to be paid upon the basis of any factual information that may come into the Tribal Council's possession. The estimate shall be made for the period or periods for which the permittee has failed to file a return. In addition to the amount of the tax estimated, the Tribal Council or its designee shall add the penalty provided for in Section 8. One or more deficiency determinations may be made for one or for more than one period. In making a determination, overpayments from prior periods may be offset against underpayments for any period or periods.

The Tribal Council or its designee shall give the permittee written notice of any deficiency determination, including the facts on which the determination is based.

### **SECTION 13. REDETERMINATION**

Any person against whom a determination is made under this chapter may file a petition for redetermination within 30 days of the date on the notice of determination. The petition shall set forth the permittee's name, the period covered, the amount protested, and the facts on which the petition is based. If a petition for redetermination is not filed, the determination becomes final on the 31st day after the date on the notice of determination. If a timely petition for redetermination is filed, the Tribal Council or its designee shall consider the reasons set forth in the petition, and, if requested by the petitioner, grant an oral hearing. If no hearing is requested, the Tribal Council or its designee may grant the petition, deny the petition or adjust the amount of the determination against the permittee. All hearings on petitions shall be before the Tribal Council after a minimum 30-day advance written notice to the permittee, and pursuant to such hearing regulations as the Tribal Council or its designee shall adopt.

The order or decision of the Tribal Council or its designee shall become final 30 days after notice of the order or decision is sent to the permittee. All determinations are due and payable at the time they become final.

### **SECTION 14. REGULATORY AUTHORITY**

The Tribal Council, or its designee, may enforce the provision of this Ordinance by the enactment of rules and regulations.

### **SECTION 15. EFFECTIVE DATE**

Chapter 1 and Chapter 2 of this Ordinance shall be effective January 1, 1997, after approval by the Tribal Council.



**CERTIFICATION**

The foregoing Amended Ordinance was passed at a duly called meeting of the Bishop Tribal Council held on the 12<sup>th</sup> day of January, 2006 with a quorum present and voting 2 AYES, 0 NAYS, 0 ABSTAINING, and 2 ABSENT. Chairman voting only in case of tie.

BISHOP TRIBAL COUNCIL:

  
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Gerald Howard, Tribal Chairman

Date: 1/20/06

ATTEST:

/S/ Wanda Summers  
Wanda Summers, Secretary

Date: 1/17/06