

# SAMPLE ALCOHOL CONTROL CODE & SEARCH WARRANT

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Caution: This model code is JUST a model. It is meant to outline some relevant parts of a tribal alcohol control law. Passing a good code should involve looking at different types of models, public discussion about what is needed in the village, and rules that meet the special needs of the village.

This code is meant for civil proceedings. It is not meant for criminal proceedings, where an offender would be prosecuted and put in jail. The code could be enforced through local law enforcement and a local tribal court that uses civil penalties: fines, community service, destruction of contraband, and other forms of restitution.

Search and Seizure is a complicated area of law, and an area of law where sovereign governments must be careful not to violate the liberty and privacy of its citizens. While creating search and seizure rules in your village, it may be a good idea to consult with an attorney about the protections in the Indian Civil Rights Act.

## **Disclaimer and Credits**

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## ALCOHOL CONTROL

### Section 1. Purpose

The purpose of this ordinance is to promote the health and welfare of the VILLAGE tribal members and to protect the future generations of the VILLAGE people.

### Section 2. Prohibition of Importation

No person or persons shall manufacture, transport to, or cause to be transported to the VILLAGE, intoxicating liquor for the purpose of selling or consuming such liquor within the VILLAGE.

### Section 3. Prohibition of Possession

No person will possess, by consumption or otherwise, intoxicating liquor within the VILLAGE.

### Section 4. Driving Under the Influence of Alcohol

No person may operate any type of motor vehicle within the VILLAGE while under the influence of alcohol.

### Section 5. Complaints and Enforcement

This ordinance shall be enforced by the VILLAGE tribal court as a civil matter under the procedures outlined in the tribal court code. In addition to the tribal court's civil enforcement, cases may be referred to the Alaska Department of Public Safety or the Alaska State Court system for prosecution of violations of the state local option law prohibiting sale and importation of alcohol which is in effect in VILLAGE.

The tribal court is authorized to impose the following civil penalties, as appropriate for violations of this ordinance:

- a. A fine payable to the tribal council up to \$1,000 or restitution.
- b. Community work service up to 100 hours.
- c. Destruction of all alcohol and any items used to manufacture alcohol.

Village of _____ Tribal Court	<b>AFFIDAVIT  FOR SEARCH  WARRANT</b>	<b>CASE NO.</b>
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**TO ANY PEACE OFFICER:**

I, \_\_\_\_\_, \_\_\_\_\_ (title or position)  
swear to the attached affidavit regarding the following:

1. The person, place or thing to be searched is described as and is located at:

Address:

Side of Street:

Cross Streets:

Building Type:

Description of Building(s):

SAMPLE: DO NOT USE

The search is also to include any and all outbuildings, garages and vehicles on the property during the execution of this search warrant.

2. The property to be searched for and seized, if found, is specifically described as:

- All alcoholic beverages and containers.
- All suspected controlled substances.
- All records indicating the sale of alcoholic beverages.
- All records indicating the sale of controlled substances.
- All items used in the possession or consumption, storage or concealment, manufacture or distribution or delivery of alcohol beverages.
- All items used in the possession or consumption, storage or concealment, manufacture or distribution or delivery of controlled substances.
- Other evidence of activity that is illegal under tribal law, or would provide evidence of activity that is illegal under tribal law:

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3. The FACTS establishing cause for the search are:

*[Describe years and type of experience as a police officer or other official, relevant training, and why you believe there is evidence of illegal activity at this place with AS MUCH DETAIL AS POSSIBLE. If relevant, include reports and observations, like those below]*

- Affiant received information on \_\_\_\_\_ at \_\_\_\_\_ am/pm from an area resident who reported \_\_\_\_\_.
- On \_\_\_\_\_ at \_\_\_\_\_ am/pm, myself and/or insert officer name conducted surveillance in the area of listed property/residence and observed the following activities:

- Alcohol containers in the area
  - Persons who appeared to be under the age of 21 in possession or under the influence of alcohol
  - Persons who appeared to be under the influence of a controlled substance
  - Loud music coming from the residence/property
  - Other:
- 

The Officer then informed me of these observations.

Signature	
Date:	
<i>Subscribed and sworn to before me on (insert date)</i>	
Notary's Signature:	

# Tribal Court Warrant – SAMPLE

\_\_\_\_\_ TRIBAL COURT

In The Matter of the Search of )  
)  
[Property, e.g. Jones residence )  
2 houses east of Catholic Church )  
)  
Or Person & his/her Address )  
)  
\_\_\_\_\_ )

CASE NO. Warrant 001 - 2013

SEARCH AND SEIZURE WARRANT

TO: Native Village Tribal Police Department

An application by a tribal police or other law enforcement officer or an authorized official representative of the tribal government requests the search of the following person or property located in the Village of \_\_\_\_\_:

[Identify the person or the specific property to be searched, and give its location]

The person or property to be searched, described above, is believed to conceal:

[Identify the evidence that you are looking for in the search, and why it is illegal under tribal law or why it may prove that something illegal has occurred]

I find that the affidavit(s) or any recorded testimony, establish probable cause to search and seize the person or property.

YOU ARE COMMANDED to execute this warrant on or before \_\_\_\_\_  
(not to exceed 14 days)

in the daytime 6:00 a.m. to 10 p.m.

at any time in the day or night as I find reasonable cause has been established.

You must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to the \_\_\_\_\_ (tribal court/tribal council).

Date and time issued: \_\_\_\_\_

\_\_\_\_\_  
Judge's signature

Village: \_\_\_\_\_

\_\_\_\_\_  
Printed Name and Title